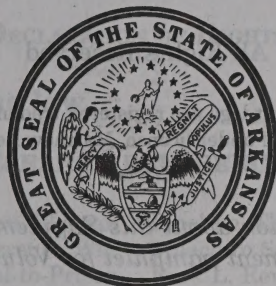


ARKANSAS CODE OF 1987 ANNOTATED



2021 SUPPLEMENT CONSTITUTIONS

Place in pocket of bound volume

Prepared by the Editorial Staff of the Publisher

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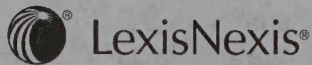
THE STATE OF ARKANSAS

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Supplement pamphlet for Volume 1A*

ISBN 978-0-327-10031-7 (Code set)
ISBN 978-1-5221-5290-3 (Constitutions)



Matthew Bender & Company, Inc.

9443 Springboro Pike, Miamisburg, OH 45342

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CONSTITUTION OF THE STATE OF ARKANSAS OF 1874

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RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Morgan Craven, Paula Johnson, & Terrence Wilson, Eradicating the School-to-Prison

Pipeline Through a Comprehensive Approach to School Equity, 42 U. Ark. Little Rock L. Rev. 703 (2020).

CASE NOTES

HIV-Positive Disclosure.

Ark. Code Ann. § 5-14-123, which makes it a criminal offense for a person to knowingly expose another person to HIV through engaging in sexual conduct without disclosing the person's HIV-positive status, does not violate the right to equal

protection of the law as the requirement that an HIV-positive individual disclose the person's status to a prospective sexual partner before engaging in sexual conduct is rationally related to stopping the spread of HIV. *Howton v. State*, 2021 Ark. App. 86, 619 S.W.3d 29 (2021).

§ 4. Right of assembly and of petition.

RESEARCH REFERENCES

ALR. State Constitutional Right of Freedom to Assembly Provisions. 41 A.L.R.7th Art. 7 (2019).

Partisan Gerrymandering as Violation of First Amendment. 37 A.L.R. Fed. 3d Art. 7 (2019).

First Amendment Protection Against

Curtailement of Access to, or Retaliation for Communications on, Social Media. 38 A.L.R. Fed. 3d Art. 5 (2019).

Status and Effect of Public Access Channels as "Public Forums" Under First Amendment. 38 A.L.R. Fed. 3d Art. 8 (2019).

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Sovereign Immunity.

Where former state employee alleged that he was terminated because he refused to violate the state policy to hire the most qualified individual for a position, and asserted claims under the Arkansas Whistle-Blower Act, § 21-1-601 et seq.,

and the federal and state constitutions, the circuit court erred when it found that sovereign immunity barred plaintiff's claims against the state officials in their individual capacities; in their individual capacities, the state officials did not enjoy the immunity granted to the State under

Ark. Const., Art. 5, § 20. *Harris v. Hutchinson*, 2020 Ark. 3, 591 S.W.3d 778 (2020).

Because former employee's claims for injunctive relief were unquestionably legal claims against the State of Arkansas, sovereign immunity barred his claims under the Arkansas Whistle-Blower Act, § 21-1-601 et seq., and the state and fed-

eral constitutions against the state officials in their official capacities; and plaintiffs' conclusory statements and bare allegations were insufficient to establish an illegal, unconstitutional, or ultra vires act such that sovereign immunity would not apply. *Harris v. Hutchinson*, 2020 Ark. 3, 591 S.W.3d 778 (2020).

§ 6. Liberty of the press and of speech — Libel.

RESEARCH REFERENCES

ALR. Construction and Application of *Reed v. Town of Gilbert*, Ariz., Providing That Speech Regulation Targeted at Specific Subject Matter Is Content-Based Even If It Does Not Discriminate Among Viewpoints Within That Subject Matter. 24 A.L.R.7th Art. 6 (2017).

State Constitutional Right of Freedom to Assembly Provisions. 41 A.L.R.7th Art. 7 (2019).

Validity Under First Amendment of

Statutes Limiting Automatic Dialing and Announcing Device (ADAD) and Robocalls. 48 A.L.R.7th Art. 1 (2020).

Partisan Gerrymandering as Violation of First Amendment. 37 A.L.R. Fed. 3d Art. 7 (2019).

First Amendment Protection Against Curtailment of Access to, or Retaliation for Communications on, Social Media. 38 A.L.R. Fed. 3d Art. 5 (2019).

CASE NOTES

Criminal Proceedings.

Appellate court applied strict scrutiny to defendant's claim that § 5-14-110(a)(1) violated his right to free speech where the texts and social media posts between defendant when he was age 18 and a 14-year-old were not in the record, and there was no recent case law finding that written descriptions of sexual acts constitute unprotected obscenity. *Worsham v. State*, 2019 Ark. App. 65, 572 S.W.3d 1 (2019).

Application of § 5-14-110(a)(1) to defendant under the stipulated facts was unconstitutionally overbroad in suppressing

his fundamental right to engage in expression protected by the First Amendment and Ark. Const., Art. 2, § 6, by punishing speech about lawful activity. The State could have achieved its goal of protecting minors in a more narrowly tailored way by prohibiting sex between an 18-year-old and a 14-year-old, especially given that a prior version of the statute criminalized only solicitations of sexual conduct that otherwise would have been illegal. *Worsham v. State*, 2019 Ark. App. 65, 572 S.W.3d 1 (2019).

§ 7. Jury trial — Right to — Waiver — Civil cases — Nine jurors agreeing.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Josh Burk, Essay: A Torahic Case Against SJR8, 40 U. Ark. Little Rock L. Rev. 121 (2017).

CASE NOTES

ANALYSIS

Equitable Claims.

Legal Issues.

Waiver, Civil Cases.

Waiver Clauses.

Equitable Claims.

Terminated surgeon was not entitled to a jury trial on his claim that the hospital violated its own professional staff rules and bylaws because only injunctive relief, an equitable remedy, is available for that type of claim. *Williams v. Baptist Health*, 2020 Ark. 150, 598 S.W.3d 487 (2020).

Legal Issues.

In litigation brought by a secondary beneficiary over the administration of several family trusts, the circuit court erred by denying plaintiff a jury trial on his legal claims (breach of fiduciary duty, conversion, fraud and concealment, and conspiracy); the clean-up doctrine has been abolished in Arkansas. Plaintiff was not entitled to a jury trial on his equitable claims (removal of trustee and injunctive relief). *Dawson v. Stoner-Sellers*, 2019 Ark. 410, 591 S.W.3d 299 (2019).

Waiver, Civil Cases.

In litigation brought by a secondary beneficiary over the administration of several family trusts, plaintiff did not waive his jury trial argument because he requested a jury trial in his petition and, under Ark. R. Civ. P. 38, no more was required; further, plaintiff was not estopped due to his request for appointment of a master because he did not make that request until after the circuit court ruled against a jury trial. *Dawson v. Stoner-Sellers*, 2019 Ark. 410, 591 S.W.3d 299 (2019).

Arbitration agreements governed by the Federal Arbitration Act, 9 U.S.C. § 1 et

seq., constitute “a manner prescribed by law” in which one may waive the right to a jury trial; the language concerning waiver in Ark. Const., Art. 2, § 7, is not limited to a “manner prescribed by Arkansas law.” *BHC Pinnacle Pointe Hosp., LLC v. Nelson*, 2020 Ark. 70, 594 S.W.3d 62 (2020).

In a medical malpractice case, the circuit court erred in striking a request by defendants doctor and his practice (jointly, the doctor) for a jury trial as a sanction for failing to comply with its scheduling order’s mediation requirement because the doctor did not consent to a bench trial, the medical malpractice claim was a legal claim to which the right of a jury trial attached, the circuit court lacked the authority under § 16-7-202 to divest the doctor of his fundamental constitutional right to a jury trial, predispute contractual jury waivers are unenforceable under this section, a trial by jury was demanded under Ark. R. Civ. P. 38, and there is no law prescribing a waiver of the right to a jury trial as a sanction for failing to comply with a court’s order to mediate. *Bandy v. Vick*, 2020 Ark. 334, 608 S.W.3d 903 (2020).

Waiver Clauses.

Under the mandate rule and law-of-the-case doctrine, Ark. Code Ann. § 16-30-104, enacted in 2018, did not apply to change the Supreme Court’s 2017 holding in this case (2017 Ark. 343) that predispute contractual jury waivers were unenforceable under the Arkansas Constitution; the Supreme Court’s previous holding that there was no provision in the law for a pre-dispute jury waiver clause to divest a litigant of the constitutional right to a jury trial was a statement of fact. *Tilley v. Malvern Nat’l Bank*, 2019 Ark. 376, 590 S.W.3d 137 (2019).

§ 8. Criminal charges — Self-incrimination — Due process — Double jeopardy — Bail.

RESEARCH REFERENCES

ALR. Construction and Application of Required Records Doctrine. 21 A.L.R.7th Art. 2 (2017).

Assertion and Violation of Privilege Against Self-Incrimination During Sex Offender Treatment. 27 A.L.R.7th Art. 8

(2018).

Witness's Refusal to Testify on Ground of Self-Incrimination as Justifying Reception of Evidence of Prior Statements or Admissions — State Cases. 36 A.L.R.7th Art. 1 (2018).

Adoption and Use of Justice Kennedy's Concurrence in *Missouri v. Seibert* Concerning "Two-Stage" or "Question-First" Interrogation Procedure. 46 A.L.R.7th Art. 1 (2019).

Applicability of Fifth Amendment to Pretrial Proceedings. 25 A.L.R. Fed. 3d Art. 3 (2017).

Construction and Application of "Foregone Conclusion" Exception to Fifth Amendment Privilege against Self-Incrimination. 25 A.L.R. Fed. 3d Art. 10

(2017).

Use of Informant by Federal Law Enforcement Agencies as Infringement of Defendant's Rights to Due Process. 36 A.L.R. Fed. 3d Art. 1 (2018).

Use of Fifth Amendment Privilege Against Self-Incrimination in Bankruptcy Proceedings. 46 A.L.R. Fed. 3d Art. 5 (2019).

Ark. L. Rev. Raelynn J. Hillhouse, Recent Developments: The Right to a Fair Cross-Section of the Community and the Black Box of Jury Pool Selection in Arkansas, 71 Ark. L. Rev. 1063 (2019).

U. Ark. Little Rock L. Rev. The Honorable Cindy Grace Thyer, Is It Time for Arkansas to Consider Pretrial Reform?, 42 U. Ark. Little Rock L. Rev. 511 (2020).

CASE NOTES

ANALYSIS

Double Jeopardy.

—Mistrial.

—Separate Offenses.

Due Process.

—Criminal Proceedings.

—Notice by Publication.

—Vagueness.

Double Jeopardy.

—Mistrial.

Defendant's motion to dismiss the charges against him based on double jeopardy grounds was properly denied as the trial court did not intend, by its conduct, to provoke defendant into moving for a mistrial, and defendant was not goaded into requesting a mistrial. Defendant's right to proceed pro se was revoked when he could not follow the rules of the court and continued to be disruptive both in front of and outside of the presence of the jury; his attorney asked for a mistrial as he did not feel that he could adequately defend defendant at that stage of the trial; the trial court explained that the mistrial would be without any conditions; and defendant welcomed a mistrial. *May v. State*, 2019 Ark. App. 443, 587 S.W.3d 257 (2019), cert. denied, 140 S. Ct. 2533, 206 L. Ed. 2d 476 (2020).

Defendant's retrial did not violate double jeopardy because the circuit court did not abuse its discretion in sua sponte

declaring a mistrial due to an overruling necessity, based on (1) a number of circumstances outside the control of the court and the State, including the unexpected unavailability of an interpreter for a second day of trial and a full docket the rest of the week, and (2) the court's efforts to try to complete the trial in one day. *Vasquez-Ramirez v. State*, 2019 Ark. App. 599, 591 S.W.3d 379 (2019).

—Separate Offenses.

Circuit court properly denied defendant's petition for writ of habeas corpus because a conviction under § 5-27-602(a)(1) for each photograph sent by defendant did not violate double jeopardy, even though he sent only one email with one attachment. The number of charges brought against defendant was authorized by the legislature, defendant did not dispute that the email he sent contained 30 separate photographs depicting children engaging in sexually explicit conduct, and, although "computer file" is included in the list of media in § 5-27-602(a)(1), the fact that the 30 photographs were attached to the email in a single file was not relevant where it is the number of photographs distributed, not the manner of distribution, that gives rise to the number of permissible charges. *Pelletier v. Kelley*, 2018 Ark. 347, 561 S.W.3d 730 (2018), cert. denied, 139 S. Ct. 2758, 204 L. Ed. 2d 1137 (2019).

Due Process.**—Criminal Proceedings.**

Defendant did not show a deprivation of his constitutional right to present a defense; the constitution permits the exclusion of evidence that is repetitive, only marginally relevant, or poses an undue risk of harassment, prejudice, or confusion of the issues, and evidence of third-party guilt that is irrelevant, or which is relevant but substantially outweighed by the danger of unfair prejudice or confusion because it is not sufficiently linked to the crime in question, is prohibited. *Barefield v. State*, 2019 Ark. 149, 574 S.W.3d 142 (2019), cert. denied, 140 S. Ct. 671, 205 L. Ed. 2d 442 (2019).

Circuit court did not err in rejecting defendant's claim that his right to due process was violated by undue prosecutorial delay when charges were brought against him in 2015 for the rape of his daughter in Arkansas County and he was tried and convicted for that rape in 2016, but he was not arrested for the Cleburne County 2015 rape of his daughter until January 2018; the record did not reflect any unnecessary delay and defendant did not suffer prejudice because he could only speculate about whether he would have received concurrent sentences if the State had filed rape charges simultaneously in

all three counties. *Rayburn v. State*, 2019 Ark. 254, 583 S.W.3d 385 (2019).

Defendant's argument failed that an in camera examination was constitutionally required of the sexual assault victim's therapy records and communications shielded by the absolute psychotherapist-patient privilege; moreover, the record did not show that the State truly had access to the records. *Vaughn v. State*, 2020 Ark. 313, 608 S.W.3d 569 (2020).

—Notice by Publication.

Notice provisions within the Municipal Property Owners' Improvement District Law, § 14-94-101 et seq., did not violate due process because indirect notice has been held sufficient in matters affecting real estate and appellants did not establish that notice by publication was inappropriate to the circumstances of the case. *Bullock's Ky. Fried Chicken, Inc. v. City of Bryant*, 2019 Ark. 249, 582 S.W.3d 8 (2019).

—Vagueness.

Ark. Code Ann. § 5-14-123, which makes it a criminal offense for a person to knowingly expose another person to HIV through engaging in sexual conduct without disclosing the person's HIV-positive status, is not unconstitutionally vague. *Howton v. State*, 2021 Ark. App. 86, 619 S.W.3d 29 (2021).

§ 9. Excessive bail or punishment prohibited — Witnesses — Detention.**RESEARCH REFERENCES**

ALR. Liability of Prison Guard, Official, or Supervisor for Rape or Sexual Abuse of Inmate in Violation of Eighth Amendment

"Deliberate Indifference" Standard, Post-Farmer cases — Federal Appellate Opinions. 41 A.L.R. Fed. 3d Art. 7 (2019).

§ 10. Right of accused enumerated — Change of venue.**RESEARCH REFERENCES**

ALR. Application of Crawford Confrontation Clause Rule to DNA Analysis and Related Documents. 17 A.L.R.7th Art. 3 (2016).

Criminal Defendant's Weight, Build or Body Type as Factor in Determination of Whether Circumstances of Witness's Identification of Defendant in Photographic Array Shown by Police to Witness

Were Impermissibly Suggestive as Matter of Federal Constitutional Law. 17 A.L.R.7th Art. 5 (2016).

Application of Crawford Confrontation Clause Rule to Autopsy Testimony and Related Documents. 18 A.L.R.7th Art. 6 (2017).

Circumstances Giving Rise to Prejudicial Conflict of Interests Between Crimi-

nal Defendant and Defense Counsel — State Cases Concerning Waiver of Conflict: Form and Context of Waiver, Duty of Court and Counsel, Responsibilities of Defendant, Impact of Applicable Rules and Regulations, Colloquy Related to Waiver, and Discretion and Analysis of Court. 19 A.L.R.7th Art. 3 (2017).

Criminal Defendant's Glasses, Jewelry, or Gold Teeth as Factor in Determination of Whether Circumstances of Witness's Identification of Defendant in Photographic Array Shown by Police to Witness Were Impermissibly Suggestive as Matter of Federal Constitutional Law. 19 A.L.R.7th Art. 7 (2017).

Criminal Defendant's Tattoos, Scars, or Injuries as Factor in Determination of Whether Circumstances of Witness's Identification of Defendant in Photographic Array Shown by Police to Witness Were Impermissibly Suggestive as Matter of Federal Constitutional Law. 21 A.L.R.7th Art. 6 (2017).

Criminal Defendant's Eyes, Lips, Nose, Ears, or Other Facial Feature or Expression as Factor in Determination of Whether Circumstances of Witness's Identification of Defendant in Photographic Array Shown by Police to Witness Were Impermissibly Suggestive as Matter of Federal Constitutional Law. 23 A.L.R.7th Art. 6 (2017).

Release of Criminal Defendant's Photograph to Media as Factor in Determination of Whether Circumstances of Witness's Identification of Defendant in Photographic Array Shown by Police to Witness Were Impermissibly Suggestive as Matter of Federal Constitutional Law. 23 A.L.R.7th Art. 7 (2017).

Construction and Application of American Bar Association Standards in Determining Ineffective Assistance of Counsel. 24 A.L.R.7th Art. 5 (2017).

Presence of Criminal Defendant in Prior Physical Show-up, Physical Lineup, or Surveillance Video as Factor in Determination of Whether Circumstances of Witness's Identification of Defendant in Photographic Array Shown by Police to Witness Were Impermissibly Suggestive as Matter of Federal Constitutional Law. 24 A.L.R.7th Art. 8 (2017).

Application of Confrontation Clause Rule to Interpreter's Translations or Other Statements — Post-Crawford Cases. 26 A.L.R.7th Art. 1 (2017).

Right to Effective Counsel and Adequacy of Defense Counsel's Representation Concerning Sex Offender Civil Commitment. 37 A.L.R.7th Art. 3 (2019).

Ark. L. Rev. Raelynn J. Hillhouse, Recent Developments: The Right to a Fair Cross-Section of the Community and the Black Box of Jury Pool Selection in Arkansas, 71 Ark. L. Rev. 1063 (2019).

CASE NOTES

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Affirmative Defenses.

Public Trial.

Right to Counsel.

—Forfeiture.

—Self-Representation.

—Waiver.

Right to Trial by Jury.

—Fair Cross-Section of Community.

Witnesses.

—Confrontation.

—Two-Way Live Video.

Affirmative Defenses.

Defendant did not show a deprivation of his constitutional right to present a defense; the constitution permits the exclusion of evidence that is repetitive, only marginally relevant, or poses an undue risk of harassment, prejudice, or confusion of the issues, and evidence of third-

party guilt that is irrelevant, or which is relevant but substantially outweighed by the danger of unfair prejudice or confusion because it is not sufficiently linked to the crime in question, is prohibited. *Barefield v. State*, 2019 Ark. 149, 574 S.W.3d 142 (2019), cert. denied, 140 S. Ct. 671, 205 L. Ed. 2d 442 (2019).

Public Trial.

Defendant convicted of rape and given a life sentence failed to object at trial to the closing of the courtroom during voir dire and thus waived the issue for appeal purposes. A contemporaneous objection is required to preserve an issue for appeal, even for constitutional issues. *Friday v. State*, 2018 Ark. 339, 561 S.W.3d 318 (2018).

Defendant's Sixth Amendment and Ark. Const., Art. 2, § 10, right to a public trial was violated when the trial court closed

the courtroom during the testimony of a State's witness in a murder trial; no record was developed before the trial court to demonstrate that the witness was actually intimidated or threatened, or by whom, there was no evidence presented on which the trial court could have determined that there was an overriding interest likely to be prejudiced, how broad any closure might have needed to be, or what reasonable alternatives to closure might have existed, and the trial court did not make findings necessary to support the closure. *Mitchell v. State*, 2019 Ark. 67, 567 S.W.3d 838 (2019).

Showing of prejudice is not necessary when a defendant's right to a public trial has been violated. *Mitchell v. State*, 2019 Ark. 67, 567 S.W.3d 838 (2019).

Right to Counsel.

Trial court did not abuse its discretion in denying defendant's motion for a continuance for the purpose of having a different public defender appointed to represent him; the request to change counsel was made just before his revocation hearing was set to begin, he offered no compelling reasons for wanting the change of counsel, and he did not identify any substitute counsel. In essence, defendant was simply dissatisfied with counsel's efforts at negotiating with the State; he did not allege that counsel was incompetent. *King v. State*, 2019 Ark. App. 531, 589 S.W.3d 420 (2019).

—Forfeiture.

Circuit court did not violate the right to counsel of a defendant convicted of rape and incest because defendant was not indigent and not entitled to appointed counsel; and, although he did not waive his right to counsel, he forfeited his right to counsel as defendant was free on bond during the relevant time period; he had won the lottery, taking home \$680,000 during the pendency of the case; he established on the record that he did not want to hire a lawyer because he could not justify spending the money; and the circuit court did not abuse its discretion in determining that defendant preferred not to hire a lawyer. *Patton v. State*, 2019 Ark. App. 63, 569 S.W.3d 906 (2019), cert. denied, 140 S. Ct. 263, 205 L. Ed. 2d 167 (2019).

—Self-Representation.

Defendant's appellate counsel was not allowed to withdraw pursuant to *Anders* because counsel did not adequately examine the record for appealable issues and accurately determine that an appeal would be wholly frivolous, and as the record and case law revealed a nonfrivolous question as to whether defendant's attempts to dismiss his attorney were also requests to represent himself — as was his federal and state constitutional right — and if they were, whether he made them sufficiently clear and unequivocal so that the circuit court was required to inquire further. *Bohanan v. State*, 2020 Ark. App. 423 (2020).

—Waiver.

Trial court did not err by finding that defendant made an unequivocal and knowing and intelligent waiver of his right to counsel and could proceed pro se because he was appointed at least three different attorneys and each time stated he did not want the appointed counsel to represent him and would prefer to represent himself, he was given several continuances to find an attorney willing to accept his case but he was unable to do so, and the trial court warned him of the dangers associated with self-representation at several hearings and notified him of his right to counsel. *Dunn v. State*, 2019 Ark. App. 398, 585 S.W.3d 681 (2019).

Trial court did not err in finding defendant competent to proceed pro se; although he was initially found unfit to proceed, he had at least three subsequent findings of competency by three different doctors. *Dunn v. State*, 2019 Ark. App. 398, 585 S.W.3d 681 (2019).

Circuit court did not err in denying defendant's right to waive counsel where his statements, taken in their entirety, represented his frustration with his counsel, not an unequivocal request to waive his right to counsel. *Gardner v. State*, 2020 Ark. 147, 598 S.W.3d 10 (2020), cert. denied, 141 S. Ct. 1082, 208 L. Ed. 2d 538 (2021).

Right to Trial by Jury.

—Fair Cross-Section of Community.

A twelve-member jury is meant to include twelve members who represent a fair cross-section of the community.

Reams v. State, 2018 Ark. 324, 560 S.W.3d 441 (2018).

A fair-cross-section-of-the-jury violation is structural and therefore cognizable in Rule 37 postconviction proceedings. Reams v. State, 2018 Ark. 324, 560 S.W.3d 441 (2018).

Witnesses.

—Confrontation.

Defendant's right to confrontation was not violated at the hearing to revoke defendant's suspended sentence; although the jailer whom defendant was accused of having assaulted did not testify, a video of the attack was shown and defendant was allowed to confront and cross-examine all of the witnesses who testified at the hearing. Furthermore, no hearsay evidence was offered. Caldwell v. State, 2018 Ark. App. 588, 565 S.W.3d 539 (2018).

Defendant's argument failed that an in camera examination was constitutionally

required of the sexual assault victim's therapy records and communications shielded by the absolute psychotherapist-patient privilege; moreover, the record did not show that the State truly had access to the records. Vaughn v. State, 2020 Ark. 313, 608 S.W.3d 569 (2020).

—Two-Way Live Video.

Even though defendant's right to confront witnesses against him was violated by a detective's remote testimony through two-way live video, the error was harmless because of the victims' detailed testimony of the sexual misconduct, which was sufficient to support defendant's convictions, the testimony of both victims' mothers and other witnesses, and the additional photos that were introduced outside of the detective's testimony. Lewis v. State, 2019 Ark. App. 43, 571 S.W.3d 498 (2019).

Cited: Alexander v. State, 2021 Ark. App. 113, 618 S.W.3d 472 (2021).

§ 13. Redress of wrongs.

CASE NOTES

Sovereign Immunity.

Under Ark. Community Correction v. Barnes, 2018 Ark. 122, sovereign immunity barred an employee's suit against a state official for damages under the Arkansas Whistle-Blower Act, § 21-1-601 et seq.; sovereign immunity under Ark. Const., Art. 5, § 20, overrode the employee's right to a remedy, under Ark. Const., Art. 2, § 13, and a suit against a state official in his or her official capacity is a suit against the official's office. Milligan v. Singer, 2019 Ark. 177, 574 S.W.3d 653 (2019).

Appellate court rejected plaintiff's argu-

ment that Ark. Const., Art. 2, § 13 supercedes Ark. Const., Art. 5, § 20, noting that the argument was indistinguishable from that made in Milligan v. Singer, 2019 Ark. 177; the legislature established the Arkansas State Claims Commission so that claims against the State may be addressed while preserving the State's sovereign immunity. However, in their individual capacities, state officials do not enjoy the immunity granted to the State under Ark. Const., Art. 5, § 20. Harris v. Hutchinson, 2020 Ark. 3, 591 S.W.3d 778 (2020).

§ 15. Unreasonable searches and seizures.

RESEARCH REFERENCES

ALR. Permissibility Under Fourth Amendment of Detention of Motorist by Police, Following Lawful Stop for Traffic Offense, to Investigate Matters Not Related to Offense — State Cases Post Rodriguez v. U.S. 40 A.L.R.7th Art. 5 (2019).

Use of Medical Marijuana as Defense to

Driving Offense or Challenge to Search of Motor Vehicle and Occupants. 43 A.L.R.7th Art. 4 (2019).

Expectation of Right to Privacy in Rental Vehicles Under Fourth Amendment. 27 A.L.R. Fed. 3d Art. 3 (2018).

Permissibility Under Fourth Amend-

ment of Detention of Motorist by Police, Following Lawful Stop for Traffic Offense, to Investigate with Canine Matters Not Related to Offense — Federal Cases Post Rodriguez v. U.S. 39 A.L.R. Fed. 3d Art. 6 (2019).

Ark. L. Notes. Alex C. Carroll, An Un-

comfortable Truth: Arkansas’s Approach to Warrantless Vehicle Searches is Unconstitutional, Ark. L. Notes (Feb. 4, 2020).

Ark. L. Rev. Erin James, Wire(less) Tapping: Protecting Arkansans’ Fourth Amendment Right in the Era of the Cloud, 72 Ark. L. Rev. 845 (2020).

CASE NOTES

ANALYSIS

Warrantless Search.

—Consent.

—Unreasonable.

Warrantless Search.

—Consent.

Defendant was entitled to suppress evidence obtained in a warrantless search of his home because the State failed to prove that an individual who lived with defendant consented to a police officer’s entry when the individual opened the door to the home. The officer admitted to stepping into the threshold of the doorway for convenience and to get out of the rain while investigating a car accident, when the officer smelled methamphetamine being burned and saw defendant and another person sitting with a methamphetamine pipe. *Abernathy v. State*, 2021 Ark. App. 79, 617 S.W.3d 738 (2021).

—Unreasonable.

Police violated defendant’s rights, and therefore the trial court erred by denying defendant’s motion to suppress, because the officer did not procure defendant’s girlfriend’s consent to search her apartment before the search began and they did not tell her that she could deny them entry before they entered. The officers did not speak their intentions to the girlfriend until they were already inside the apartment and they did not present a consent to search form or seek verbal consent to search from her until they were already inside the apartment. *Virgil v. State*, 2020 Ark. App. 314, 603 S.W.3d 603 (2020).

Law enforcement must inform citizens of their right to refuse a warrantless search of their homes before an officer may enter, not after the warrantless entry has already occurred. *Virgil v. State*, 2020 Ark. App. 314, 603 S.W.3d 603 (2020).

§ 16. Imprisonment for debt.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Jessie Wallace Burchfield, A Ticket to Jail: Do Minor Traffic Violations Result in Jail

Time for Poor Arkansans?, 42 U. Ark. Little Rock L. Rev. 371 (2020).

§ 21. Life, liberty and property — Banishment prohibited.

CASE NOTES

ANALYSIS

Opportunity to Be Heard.

Taking of Property.

Opportunity to Be Heard.

In an Arkansas Civil Rights Act case, the company’s due process rights in the operation of the apartment complex that it owned were violated because it was deprived of its property interest by the fire chief’s order that it cease its operations

and that its tenants vacate the property; the fire chief was acting under color of the fire code in issuing that order; and the city did not provide any pre- or postdeprivation mechanism for the company to challenge the closure. *City of Little Rock v. Alexander Apts., LLC*, 2020 Ark. 12, 592 S.W.3d 224 (2020).

In an Arkansas Civil Rights Act case, the city violated the tenants’ due process rights because the tenants had a property

interest in the exclusive possession of their apartments; the letter and notice instructing them to vacate by, and that utilities would be turned off on, December 28, 2015, interfered with that exclusive possession; and the tenants were not provided with any pre- or postdeprivation mechanism for challenging their apartments' closure. *City of Little Rock v. Alexander Apts., LLC*, 2020 Ark. 12, 592 S.W.3d 224 (2020).

facial due process claim because the owner failed to meet its burden of showing that the city's condemnation ordinance and procedures were facially unconstitutional; the city's ordinance provided for adequate notice before condemnation, as well as a public hearing, and it also included information on how to appeal a condemnation decision. *Convent Corp. v. City of North Little Rock*, 2021 Ark. 7, 615 S.W.3d 706 (2021).

Taking of Property.

Circuit court properly granted a city summary judgment on a property owner's

§ 22. Property rights — Taking without just compensation prohibited.

RESEARCH REFERENCES

ALR. Measure of Just Compensation in Taking of Wetland. 40 A.L.R.7th Art. 7 (2019).

Based on Conversion of Rail Corridor to Recreational Trail Pursuant to National Trails System Act (16 U.S.C. §§ 1241 et seq.). 28 A.L.R. Fed. 3d Art. 6 (2018).

Fifth Amendment Takings Claims

CASE NOTES

ANALYSIS

Compensation.
Judicial Immunity.

Fish Comm'n v. Heslep, 2019 Ark. 226, 577 S.W.3d 1 (2019).

Compensation.

Judicial Immunity.

Circuit court properly denied the Arkansas Game and Fish Commission's (AGFC) motion to dismiss because there was no basis for the assertion of sovereign immunity based on the fact that a plaintiff could not seek monetary damages from the State; while the complaint stated that AGFC had to compensate the owners, the prayer for relief did not include a request for monetary damages, and the owners stated in their brief that they were not seeking monetary damages. *Ark. Game &*

In a private probation company's 42 U.S.C. § 1983 action, stemming from two Craighead County district court judges' implementation of an amnesty program forgiving probation fees, the judges were entitled to judicial immunity because such action was related to district courts' authorized functions; Arkansas law provided that the district courts had jurisdiction to modify or dismiss probation sentences and conditions of misdemeanor offenders. *Justice Network Inc. v. Craighead Cty.*, 931 F.3d 753 (8th Cir. 2019).

§ 24. Religious liberty.

RESEARCH REFERENCES

ALR. Free Exercise Clause of First Amendment — U.S. Supreme Court Cases. 37 A.L.R. Fed. 3d Art. 12 (2019).

§ 25. Protection of religion.

RESEARCH REFERENCES

ALR. Free Exercise Clause of First Amendment — U.S. Supreme Court Cases. 37 A.L.R. Fed. 3d Art. 12 (2019).

ARTICLE 4

DEPARTMENTS

§ 1. Departments of government.

CASE NOTES

ANALYSIS

Delegation of Powers.
Executive Privilege.
Prosecutor's Authority.

Delegation of Powers.

Section 2-16-206, which sets forth the appointment process for members of the State Plant Board, is unconstitutional because the statute delegates legislative power to private entities by permitting private industry to appoint nine of the 18 board members (decided under prior version of statute). *McCarty v. Walker*, 2021 Ark. 105 (2021).

Executive Privilege.

Executive privilege exists in Arkansas. *Protect Fayetteville v. City of Fayetteville*, 2019 Ark. 28, 566 S.W.3d 105 (2019).

Circuit court erred in denying the State's motions for a protective order and to quash the subpoenas served on two state legislators because the Speech and

Debate Clause affords legislators privilege from certain discovery and testimony and the privilege extends beyond statements and acts made on the literal floor of the House; and the Arkansas Constitution provides for the executive privilege in the separation-of-powers provisions. *Protect Fayetteville v. City of Fayetteville*, 2019 Ark. 28, 566 S.W.3d 105 (2019).

Prosecutor's Authority.

While the juvenile was charged with second-degree terroristic threatening and the circuit court in effect sua sponte amended the charge when it found the juvenile guilty of second-degree assault, and second-degree assault is not a lesser-included offense of second-degree terroristic threatening, the juvenile failed to raise his due process challenge at the circuit court level and therefore failed to preserve the issue for appellate review. *I.K. v. State*, 2018 Ark. App. 584, 564 S.W.3d 579 (2018).

§ 2. Separation of departments.

CASE NOTES

ANALYSIS

Delegation of Powers.
—Improper.
Executive Privilege.

Delegation of Powers.

—Improper.

Section 2-16-206, which sets forth the appointment process for members of the State Plant Board, is unconstitutional be-

cause the statute delegates legislative power to private entities by permitting private industry to appoint nine of the 18 board members (decided under prior version of statute). *McCarty v. Walker*, 2021 Ark. 105 (2021).

Executive Privilege.

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Circuit court erred in denying the State’s motions for a protective order and to quash the subpoenas served on two state legislators because the Speech and Debate Clause affords legislators privilege from certain discovery and testimony and the privilege extends beyond state-

ments and acts made on the literal floor of the House; and the Arkansas Constitution provides for the executive privilege in the separation-of-powers provisions. *Protect Fayetteville v. City of Fayetteville*, 2019 Ark. 28, 566 S.W.3d 105 (2019).

ARTICLE 5

LEGISLATIVE DEPARTMENT

§ 1. Initiative and Referendum.

RESEARCH REFERENCES

Ark. L. Rev. Carol Goforth & Robyn Goforth, *Medical Marijuana in Arkansas: The Risks of Rushed Drafting*, 71 Ark. L. Rev. 647 (2019).

Nancy Smith, *The Secret Sauce of Ballot Initiative Approval: Eliminating Issues Within Arkansas’s Pre-Circulation Review*, 72 Ark. L. Rev. 683 (2020).

U. Ark. Little Rock L. Rev. Michael Stiritz, *Note: Ballot Initiatives and Direct Democracy—Amendment 100 to the Arkansas Constitution: Constitutional Issues Surrounding Ballot Initiatives and Local Legislation*, 43 U. Ark. Little Rock L. Rev. 87 (2021).

CASE NOTES

ANALYSIS

- Applicability.
- Initiative and Referendum.
- Petition.
- In General.
- Referendum.
- Emergency Clause.

Applicability.

Ark. Const., Art. 19, § 22, governed the ballot titles of two ballot issues concerning term limits as nothing in the plain language of Acts 2019, No. 376, which enacted Ark. Code Ann. § 7-9-205, expressly stated that a constitutional amendment proposed by the General Assembly had to be reviewed under this section (“Amendment 7”). *Steele v. Thurston*, 2020 Ark. 320, 609 S.W.3d 357 (2020).

Initiative and Referendum.

Preliminary injunction finding that the entirety of Ark. Code Ann. § 7-9-601(b) was unconstitutional was not overbroad; because all of the subdivisions in § 7-9-601(b) were related to the criminal background check, they were interrelated and dependent on each other. *Thurston v. Safe*

Surgery Ark., 2021 Ark. 55, 619 S.W.3d 1 (2021).

Because Ark. Code Ann. § 7-9-601(b)(1) and (b)(3) were impossible to comply with, the circuit court did not abuse its discretion in determining a ballot question committee demonstrated a likelihood of success on the merits in its action alleging the statute was unconstitutional. *Thurston v. Safe Surgery Ark.*, 2021 Ark. 55, 619 S.W.3d 1 (2021).

Petition.

—In General.

District court’s merits determination rested on the erroneous legal conclusion that the in-person signature and notarization requirements for initiative petitions were subject to strict scrutiny, but neither requirement violated the First Amendment; there had to be some effect on communication of ideas associated with petition circulation, and the voters did not show the in-person notarization requirement had that effect, and having in-person canvassers was reasonable and non-discriminatory to prevent fraud and

mistake. *Miller v. Thurston*, 967 F.3d 727 (8th Cir. 2020).

Referendum.

—Emergency Clause.

Emergency clause of Acts 2019, No. 376 was defective where the stated basis was “to avoid confusion in petition circulation”; Act 376 added additional requirements for getting a referendum on the election ballot, and the prospect of affording those who seek to file a ballot petition additional notice of new requirements for that petition, especially when the people would not be voting on any such initiatives or referenda for at least another 15 months, did not amount to an emergency under Ark. Const., Art. 5, § 1. *Safe Surgery Ark. v. Thurston*, 2019 Ark. 403, 591 S.W.3d 293 (2019) (sub. op.).

Emergency clause of Acts 2019, No. 376 was not responsive to some real-life cir-

cumstance making immediate legislative enactment “necessary for the preservation of the public peace, health and safety”, and reasonable people could not disagree on this question; thus, the emergency clause was set aside. *Safe Surgery Ark. v. Thurston*, 2019 Ark. 403, 591 S.W.3d 293 (2019) (sub. op.).

As the emergency clause of Acts 2019, No. 376 was ineffective and Act 376’s new requirements were not in effect at the time petitioner filed its proposed referendum and supporting signatures, mandamus was granted directing the Secretary of State to address petitioner’s referendum filings (seeking a referendum on Acts 2019, No. 579) under the pre-Act 376 legal framework for initiatives and referenda. *Safe Surgery Ark. v. Thurston*, 2019 Ark. 403, 591 S.W.3d 293 (2019) (sub. op.).

Cited: *Arkansans for Healthy Eyes v. Thurston*, 2020 Ark. 270 (2020).

§ 9. Persons convicted ineligible.

CASE NOTES

ANALYSIS

“Infamous Crime.”

Pardon.

“Infamous Crime.”

Circuit court did not clearly err in determining that a registered voter had established by a preponderance of the evidence that a circuit court judge candidate had pleaded guilty to and been convicted of violations of the Arkansas Hot Check Law, § 5-37-301 et seq., where it required the voter to demonstrate that he had a clear and certain right to the disqualification of the candidate, thereby correctly applying the burden of proof. The candidate also failed to present documentary evidence to contradict the certified court records and admitted that he was 25 years old at the time, which was consistent with the certified court record. *Wyatt v. Carr*, 2020 Ark. 21, 592 S.W.3d 656 (2020).

Candidate for circuit court judge was not disqualified from running due to his conviction for a violation of § 27-14-306, the fictitious motor vehicle tags statute, as misdemeanor “infamous crimes” under Ark. Const. Art. 5, § 9 and § 7-1-101 are misdemeanor offenses in which “the finder of fact was required to find, or the

defendant to admit, an act of deceit, fraud, or false statement”, and the appellate court could not say that a violation of § 27-14-306 required a finding or admission of deceit, fraud, or false statement. *Weeks v. Thurston*, 2020 Ark. 64, 594 S.W.3d 23 (2020).

While deceit, fraud, or a false statement certainly can be present in a violation of § 27-14-306, a finder of fact is not required under the statute to find deceit, fraud, or a false statement. *Weeks v. Thurston*, 2020 Ark. 64, 594 S.W.3d 23 (2020).

Circuit court properly declared an alderman-elect ineligible to run for public office because he had pled guilty to “voting more than once in an election” in violation of § 7-1-103; the framers of this section intended for an “infamous crime” to include crimes involving elements of deceit, dishonesty, impugning on the integrity of the office, and directly impacting the person’s ability to serve as an elected official; and, with the inclusion of § 7-1-103(b)(2)(A), the General Assembly deliberately chose to exclude from public office all persons found guilty of election-related misdemeanors, regardless of whether the record was later sealed. *Pruitt v. Smith*, 2020 Ark. 382, 610 S.W.3d 660 (2020).

Pardon.

Circuit court properly granted a writ of mandamus and declaratory judgment in favor of the Republican Party’s nominee for a House district because the Democratic Party’s nominee had been convicted of crimes that disqualified him from serving in the Arkansas House of Representa-

tives where the crimes involved “acts of deceit, fraud, or false statement” within the definition of “infamous crime” in this section, and his presidential pardon did not restore his eligibility to sit as a representative. *Gray v. Webb*, 2020 Ark. 385, 611 S.W.3d 466 (2020).

§ 15. Privileges of members.

CASE NOTES

Legislative Privilege.

The language in the Arkansas Speech and Debate Clause in this section is identical to the Speech and Debate Clause in the U.S. Constitution; and the Arkansas Supreme Court interpreted the state provision like the United States Supreme Court interprets the federal provision. *Protect Fayetteville v. City of Fayetteville*, 2019 Ark. 28, 566 S.W.3d 105 (2019).

Circuit court erred in denying the State’s motions for a protective order and

to quash the subpoenas served on two state legislators because the Speech and Debate Clause affords legislators privilege from certain discovery and testimony and the privilege extends beyond statements and acts made on the literal floor of the House; and the Arkansas Constitution provides for the executive privilege in the separation-of-powers provisions. *Protect Fayetteville v. City of Fayetteville*, 2019 Ark. 28, 566 S.W.3d 105 (2019).

§ 20. State not made defendant.

RESEARCH REFERENCES

Ark. L. Rev. Robert C. Dalby, Comment: Too Plain to Be Misunderstood: Sov-

ereign Immunity Under the Arkansas Constitution, 71 Ark. L. Rev. 761 (2019).

CASE NOTES

ANALYSIS

- Construction.
- Actions Proper.
- Administrative Appeals.
- Declaratory Judgments.
- Individual Capacity.
- Injunctions.
- Ultra Vires Conduct.
- Improper Actions.
- Exceptions Not Applicable.
- Non-Adjudicatory Agency Decision.
- State Officers.
- Statutory Provisions.

Construction.

Appellate court rejected plaintiff’s argument that Ark. Const., Art. 2, § 13 supercedes Ark. Const., Art. 5, § 20, noting that the argument was indistinguishable from that made in *Milligan v. Singer*, 2019 Ark. 177; the legislature established the Arka-

sas State Claims Commission so that claims against the State may be addressed while preserving the State’s sovereign immunity. *Harris v. Hutchinson*, 2020 Ark. 3, 591 S.W.3d 778 (2020).

Actions Proper.

—Administrative Appeals.

Circuit court erred in dismissing with prejudice, based on sovereign immunity, an administrative appeal from final orders of the Oil and Gas Commission because sovereign immunity was not implicated where the commission was not “made a defendant” as contemplated by the state constitution; the commission’s role in the proceeding was that of a tribunal or a quasi-judicial decision-maker rather than a real party in interest. It followed that the circuit court’s rulings declaring the adjudicatory provisions of

the Administrative Procedure Act unconstitutional and invalidating the commission's orders as void ab initio also were reversed. *Ark. Oil & Gas Comm'n v. Hurd*, 2018 Ark. 397, 564 S.W.3d 248 (2018).

Circuit court erred in concluding that applicant's petition for review under the Arkansas Administrative Procedure Act was barred by sovereign immunity after the applicant was denied a private investigator license by administrative decision of the director of the Arkansas State Police. The petition for review only sought review of an administrative decision and did not state a cause of action against the director, who acted in a quasi-judicial capacity and had no vested interest in the outcome of the appeal other than whether the decision to deny the application was upheld. *Hackie v. Bryant*, 2019 Ark. 228, 577 S.W.3d 10 (2019).

Proceeding to challenge an administrative decision by a state entity is not one against the state for purposes of Ark. Const., Art. 5, § 20. *Hackie v. Bryant*, 2019 Ark. 228, 577 S.W.3d 10 (2019).

—Declaratory Judgments.

Marijuana cultivation facility applicant was allowed to proceed on an equal protection claim against the Medical Marijuana Commission as it was premised on the State's allegedly unconstitutional actions and sought a declaratory judgment, and the applicant had sufficiently alleged state action that differentiated among individuals. *Ark. Dep't of Fin. & Admin. v. Carpenter Farms Med. Grp., LLC*, 2020 Ark. 213, 601 S.W.3d 111 (2020).

—Individual Capacity.

Where former state employee alleged that he was terminated because he refused to violate the state policy to hire the most qualified individual for a position, and asserted claims under the Arkansas Whistle-Blower Act, § 21-1-601 et seq., and the federal and state constitutions, the circuit court erred when it found that sovereign immunity barred plaintiff's claims against the state officials in their individual capacities; in their individual capacities, the state officials did not enjoy the immunity granted to the State under Ark. Const., Art. 5, § 20. *Harris v. Hutchinson*, 2020 Ark. 3, 591 S.W.3d 778 (2020).

While the circuit court properly granted a motion to dismiss filed by a state agency

and its employees in their official capacities based on sovereign and qualified immunity, its ruling dismissing all the claims against the employees in their individual capacities was reversed because the employees in their individual capacities did not enjoy the constitutional immunity granted to the State. *Hostler v. Denison*, 2020 Ark. App. 255, 601 S.W.3d 142 (2020).

—Injunctions.

Circuit court properly denied the Arkansas Game and Fish Commission's (AGFC) motion to dismiss because there was no basis for the assertion of sovereign immunity based on the fact that a plaintiff could not seek monetary damages from the State; while the complaint stated that AGFC had to compensate the owners, the prayer for relief did not include a request for monetary damages, and the owners stated in their brief that they were not seeking monetary damages. *Ark. Game & Fish Comm'n v. Heslep*, 2019 Ark. 226, 577 S.W.3d 1 (2019).

Circuit court properly denied the Arkansas Game and Fish Commission's (AGFC) motion to dismiss because property owners' claims for injunctive and declaratory relief were not barred by the doctrine of sovereign immunity; the essence of the claims was that AGFC illegally blocked the owners' access to the road that was their only access to their property and the complaint alleged that AGFC acted illegally or in an ultra vires manner. *Ark. Game & Fish Comm'n v. Heslep*, 2019 Ark. 226, 577 S.W.3d 1 (2019).

—Ultra Vires Conduct.

Circuit court erred in dismissing the company's complaint on the basis of sovereign immunity because the remaining claims were sufficiently developed, detailed, and specific as to properly allege ultra vires conduct and the complaint did not seek monetary damages but only declaratory and injunctive relief. *Monsanto Co. v. Ark. State Plant Bd.*, 2019 Ark. 194, 576 S.W.3d 8 (2019).

When a claim is based on alleged ultra vires conduct on the part of the State, and the claimant seeks only declaratory and injunctive relief, sovereign immunity is inapplicable. *Monsanto Co. v. Ark. State Plant Bd.*, 2019 Ark. 194, 576 S.W.3d 8 (2019).

Marijuana cultivation facility applicant's claim that the Medical Marijuana Commission failed to adopt model rules promulgated by the Attorney General under § 25-15-215, or give a reason for not doing so, was allowed to proceed under § 25-15-207 as it involved the applicability or validity of the Commission's rules, rather than the Commission's application of those rules to the applicant. This claim could proceed under the "ultra vires" or "illegal acts" exception to sovereign immunity. *Ark. Dep't of Fin. & Admin. v. Carpenter Farms Med. Grp., LLC*, 2020 Ark. 213, 601 S.W.3d 111 (2020).

Improper Actions.

—Exceptions Not Applicable.

Former employee's injunctive relief claim against a warden of a state correctional facility in his official capacity alleging she had been discharged due to gender and racial discrimination was unquestionably a legal claim against the State of Arkansas and therefore barred from the State's courts by sovereign immunity. The employee had not sufficiently pleaded an exception to sovereign immunity where the amended complaint failed to provide any factual allegations relating to her termination, much less her racial and gender discrimination claims. *Banks v. Jones*, 2019 Ark. 204, 575 S.W.3d 111 (2019).

Because former employee's claims for injunctive relief were unquestionably legal claims against the State of Arkansas, sovereign immunity barred his claims under the Arkansas Whistle-Blower Act, § 21-1-601 et seq., and the state and federal constitutions against the state officials in their official capacities; and plaintiff's conclusory statements and bare allegations were insufficient to establish an illegal, unconstitutional, or ultra vires act such that sovereign immunity would not apply. *Harris v. Hutchinson*, 2020 Ark. 3, 591 S.W.3d 778 (2020).

Department of Human Services was entitled to dismissal of a complaint on sovereign immunity grounds because plaintiffs were seeking monetary damages, not injunctive relief, and the exception to sovereign immunity for acts that are illegal, unconstitutional, ultra vires, arbitrary, capricious, or in bad faith does not apply to claims for money damages. *Ark. Dep't*

of Human Servs. v. Harris, 2020 Ark. 30, 592 S.W.3d 670 (2020).

Circuit court properly granted summary judgment to the Arkansas State Police (ASP) in an action by a towing company and an employee for injunctive and declaratory relief asserting that the ASP policy prohibiting individuals with felony convictions from placement on the ASP Towing Rotation List was illegal under § 17-1-103. Plaintiffs' suit was barred by sovereign immunity, because § 17-1-103 did not apply to ASP, as ASP did not deal in licensing or regulating the occupation of towing within the meaning of § 17-1-103(f), as required for § 17-1-103 to apply; thus, plaintiffs failed to demonstrate that the illegal-act exception to sovereign immunity applied. *Steve's Auto Ctr. of Conway, Inc. v. Ark. State Police*, 2020 Ark. 58, 592 S.W.3d 695 (2020).

County assessor, not appellant as Director of the Assessment Coordination Division, was charged with the duty to appraise and assess appellees' working interests, and because the department guidelines were discretionary, appellant did not engage in illegal, unconstitutional, or ultra vires conduct in issuing the guidelines to the assessor; thus, the circuit court erred in finding appellant was not immune from suit for purposes of this section. *Chaney v. Union Producing, LLC*, 2020 Ark. 388, 611 S.W.3d 482 (2020).

—Non-Adjudicatory Agency Decision.

Marijuana cultivation facility applicant could not proceed to the extent its complaint rested on § 25-15-212 as a jurisdictional basis as the Medical Marijuana Commission's decision to disqualify it took place without notice or a hearing, and thus it was not the result of an adjudication. *Ark. Dep't of Fin. & Admin. v. Carpenter Farms Med. Grp., LLC*, 2020 Ark. 213, 601 S.W.3d 111 (2020).

—State Officers.

Law professor's official-capacity monetary relief claims against state university officials were properly dismissed because sovereign immunity barred such claims; claims for monetary damages against the state and state employees acting in their official capacities are barred by sovereign immunity. *Steinbuch v. Univ. of Ark.*, 2019 Ark. 356, 589 S.W.3d 350 (2019).

—Statutory Provisions.

Per the holding in *Board of Trustees v. Andrews*, 2018 Ark. 12, to the extent the legislature subjected the State to liability in the Arkansas Whistle-Blower Act, § 21-1-601 et seq., it is prohibited by Ark. Const., Art. 5, § 20, and the circuit court erred when it denied defendant's motion for judgment on the pleadings based on sovereign immunity. The General Assembly's choice to abrogate sovereign immunity in the Arkansas Whistle-Blower Act is prohibited by the Arkansas Constitution. *Ark. Cmty. Corr. v. Barnes*, 2018 Ark. 122, 542 S.W.3d 841 (2018).

In a class action suit under the Arkansas Minimum Wage Act, the circuit court's denial of the defendant's motion to dismiss on sovereign immunity grounds was reversed per the holding in *Board of Trustees v. Andrews*, 2018 Ark. 12, which held unconstitutional the provision of the Arkansas Minimum Wage Act, § 11-4-218(e), that allows the State to be named as a defendant. The avenue for financial redress is through the Claims Commission. *Ark. VA v. Mallett*, 2018 Ark. 217, 549 S.W.3d 351 (2018).

Under Ark. Community Correction v. Barnes, 2018 Ark. 122, sovereign immunity barred an employee's suit against a state official for damages under the Arkansas Whistle-Blower Act, § 21-1-601 et seq.; sovereign immunity under Ark. Const., Art. 5, § 20, overrode the employee's right to a remedy, under Ark. Const., Art. 2, § 13, and a suit against a state official in his or her official capacity is a

suit against the official's office. *Milligan v. Singer*, 2019 Ark. 177, 574 S.W.3d 653 (2019).

Because former employee's claims for injunctive relief were unquestionably legal claims against the State of Arkansas, sovereign immunity barred his claims under the Arkansas Whistle-Blower Act, § 21-1-601 et seq., and the state and federal constitutions against the state officials in their official capacities; and plaintiffs' conclusory statements and bare allegations were insufficient to establish an illegal, unconstitutional, or ultra vires act such that sovereign immunity would not apply. *Harris v. Hutchinson*, 2020 Ark. 3, 591 S.W.3d 778 (2020).

Arkansas Governor did not waive sovereign immunity by signing the Arkansas Whistle-Blower Act, § 21-1-601 et seq., because the governor does not enact legislation. *Harris v. Hutchinson*, 2020 Ark. 3, 591 S.W.3d 778 (2020).

Where former state employee alleged that he was terminated because he refused to violate the state policy to hire the most qualified individual for a position, and asserted claims under the Arkansas Whistle-Blower Act, § 21-1-601 et seq., and the federal and state constitutions, the circuit court erred when it found that sovereign immunity barred plaintiff's claims against the state officials in their individual capacities; in their individual capacities, the state officials did not enjoy the immunity granted to the State under Ark. Const., Art. 5, § 20. *Harris v. Hutchinson*, 2020 Ark. 3, 591 S.W.3d 778 (2020).

§ 32. Workmen's Compensation Laws — Actions for personal injuries.

CASE NOTES

Exclusive Remedy.

General Assembly validly exercised its constitutionally granted authority when crafting § 11-9-105(a), the workers' compensation exclusive remedy provision, to include "stockholders" and "principals" as "employers". *Myers v. Yamato Kogyo Co.*, 2020 Ark. 135, 597 S.W.3d 613 (2020).

Workers' Compensation Commission's conclusion that the parent companies of the direct employer were statutory em-

ployers as principals and stockholders of the direct employer (and thus immune under the exclusive remedy provision) was supported by substantial evidence. Accordingly, § 11-9-105(a), the workers' compensation exclusive remedy provision, was constitutional as applied because the parent companies had an employment relationship with the deceased employee. *Myers v. Yamato Kogyo Co.*, 2020 Ark. 135, 597 S.W.3d 613 (2020).

ARTICLE 7

JUDICIAL DEPARTMENT

§ 28. County courts — Jurisdiction — Single judge holding court.

CASE NOTES

Jurisdiction.

Circuit court and thus an appellate court were without jurisdiction to hear a case related to county taxes because the Arkansas Constitution explicitly vests ju-

risdiction with county courts for all matters relating to county taxes. Dismissal of the appeal was therefore appropriate. *Eddy v. Haley*, 2020 Ark. App. 430, 606 S.W.3d 613 (2020).

§ 47. Constables — Term of office — Certificate of election.

CASE NOTES

Township Lines.

Constables are township officers and the county court cannot abolish the constable position from a township, as each township must have an elected constable, but this requirement does not take away from the county court's authority to abol-

ish or alter township lines; counties are not required to maintain a specific number of townships or constable positions, and there must be one elected constable position in each township. *Clowers v. Edwards*, 2020 Ark. 367 (2020).

ARTICLE 9

EXEMPTION

§ 7. Married woman's separate property — Right of disposition — Not liable for debts of husband.

CASE NOTES

Intentional Acts Exclusion.

Insurance policy's intentional acts exclusion barred an innocent spouse's recovery when the spouse's husband burned down the parties' house and died by suicide inside the house, and the innocent

spouse's argument failed that denying her recovery would unconstitutionally subject her property rights in the policy to the debts of her husband. *Shelter Mut. Ins. Co. v. Lovelace*, 2020 Ark. 93, 594 S.W.3d 84 (2020).

ARTICLE 12

MUNICIPAL AND PRIVATE CORPORATIONS

SECTION.

5. Political subdivisions not to become stockholders in or lend credit to private corporations — Exceptions.

§ 4. Limitation on legislative and taxing power — Local bond issues.

CASE NOTES

ANALYSIS

Local Legislative Authority.
—Contrary to State Laws.

stitution. *Protect Fayetteville v. City of Fayetteville*, 2019 Ark. 30, 565 S.W.3d 477 (2019).

Local Legislative Authority.

—Contrary to State Laws.

City ordinances that conflict with state statutes are void under the Arkansas Con-

§ 5. Political subdivisions not to become stockholders in or lend credit to private corporations — Exceptions.

(a) No county, city, town or other municipal corporation, shall become a stockholder in any company, association, or corporation; or obtain or appropriate money for, or loan its credit to, any corporation, association, institution or individual.

(b) However, a county, city, town, or other municipal corporation may obtain or appropriate money for a corporation, association, institution, or individual to:

- (1) Finance economic development projects; or
- (2) Provide economic development services.
- (c) As used in this section:

(1) “Economic development projects” means the land, buildings, furnishings, equipment, facilities, infrastructure, and improvements that are required or suitable for the development, retention, or expansion of:

- (A) Manufacturing, production, and industrial facilities;
- (B) Research, technology, and development facilities;
- (C) Recycling facilities;
- (D) Distribution centers;
- (E) Call centers;
- (F) Warehouse facilities;
- (G) Job training facilities;
- (H) Regional or national corporate headquarters facilities; and
- (I) Sports complexes designed to host local, state, regional, and national competitions, including without limitation baseball, softball, and other sports tournaments;
- (2) “Economic development services” means:

(A) Planning, marketing, and strategic advice and counsel regarding job recruitment, job development, job retention, and job expansion;

(B) Supervision and operation of industrial parks or other such properties; and

(C) Negotiation of contracts for the sale or lease of industrial parks or other such properties; and

(3) “Infrastructure” means:

- (A) Land acquisition;
- (B) Site preparation;
- (C) Road and highway improvements;
- (D) Rail spur, railroad, and railport construction;
- (E) Water service;
- (F) Wastewater treatment;
- (G) Employee training which may include equipment for such purpose; and
- (H) Environmental mitigation or reclamation.

(d) The General Assembly, by a three-fourths vote of each house, may amend the provisions of subsections (b) and (c) of this section so long as the amendments are germane to this section and consistent with its policy and purposes. [As amended by Const. Amend. 97; Acts 2019, No. 1072, § 1.]

Legislative Amendments. The 2019 amendment added (c)(1)(I).

ARTICLE 14

EDUCATION

§ 1. Free school system.

RESEARCH REFERENCES

Ark. L. Rev. Areto A. Imoukhuede, Enforcing the Right to Public Education, 72 Ark. L. Rev. 445 (2019).	son, Eradicating the School-to-Prison Pipeline Through a Comprehensive Approach to School Equity , 42 U. Ark. Little Rock L. Rev. 703 (2020).
U. Ark. Little Rock L. Rev. Morgan Craven, Paula Johnson, & Terrence Wil-	

§ 2. School fund — Use — Purposes.

RESEARCH REFERENCES

Ark. L. Rev. Kevin Woodson, Why Kindergarten Is Too Late: The Need for Early	Childhood Remedies in School Finance Litigation , 70 Ark. L. Rev. 87 (2017).
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§ 3. School tax — Budget — Approval of tax rate.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Tucker M. Brackins, Note: Tax Increment Financing—A Case for Bringing TIF Back to the	State of Arkansas , 42 U. Ark. Little Rock L. Rev. 611 (2020).
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ARTICLE 16

FINANCE AND TAXATION

§ 2. Debts of state — Payment.

RESEARCH REFERENCES

Ark. L. Rev. Robert C. Dalby, Comment: Too Plain to Be Misunderstood: Sovereign Immunity Under the Arkansas Constitution, 71 Ark. L. Rev. 761 (2019).

§ 5. Property taxed according to value — Procedures for valuation — Tax exemptions.

CASE NOTES

ANALYSIS

Exemptions.

—Hospitals.

—Improvement Districts.

—Public Property.

Exemptions.**—Hospitals.**

It was not clear error to hold that seven parcels of land owned by a hospital were tax-exempt, where the county tax assessor argued that the hospital's use of the parcels for outpatient clinics was for the pursuit of compensation rather than exclusively for public charity. It was undisputed that the hospital was technically a charitable organization, that the hospital and the hospital's clinics were open to the general public, and that no one was refused services due to inability to pay; the parcels were used exclusively by hospital employees to operate outpatient health-care clinics open to the general public; and precedent did not require a specific percentage of free medical care to qualify for the tax exemption. *Hardesty v. N. Ark. Med. Servs.*, 2019 Ark. App. 410, 585 S.W.3d 177 (2019).

—Improvement Districts.

Circuit court committed no reversible error in finding that a recreational improvement district was not operated ex-

clusively for public purposes, and thus was not exempt from ad valorem taxes, where it was formed to serve the district inhabitants and "to contract for the right of the district's property owners", there was a disparity in the membership fees paid by residents and nonresidents, thereby providing preferential access to residents, and portions of the clubhouse were leased out to a third-party vendor for profit. *Silver Springs Prop. Owners' Rec. Improvement Dist. No. 30 of Haskell v. Arey*, 2019 Ark. App. 520, 588 S.W.3d 864 (2019).

—Public Property.

Circuit court erred in affirming a county assessor's denial of a tax exemption under this section, for three land parcels owned by a city and its airport (jointly, the airport) because a government entity's ownership of unleased property while it pursued a private lease could constitute an exclusive public purpose, the unrefuted evidence showed that the airport utilized the properties in a manner that served an exclusive public purpose during the unleased periods, and the county assessor's failure to file an answer and comply with Ark. Dist. Ct. R. 9(c) was a procedural error, not a jurisdictional one, that did not deprive the circuit court of jurisdiction. *City of Little Rock v. Ward*, 2020 Ark. 399, 611 S.W.3d 471 (2020).

§ 11. Levy and appropriation of taxes.

CASE NOTES

Elections.

Trial court did not err in dismissing an illegal-exaction complaint against a city alleging that the sole purpose of a local sales and use tax approved at a special election was to satisfy the city's debt to the federal government and that funds collected in excess of that debt were an illegal exaction. The trial court properly utilized the enabling ordinance and ballot

title in determining the approved uses for the excess funds, despite plaintiffs' contention that the court should be permitted to consider evidence other than the ballot title, and it was undisputed that the plain language of the ordinance and ballot title clearly permitted the city to use the funds to pay payroll and employment taxes. *Carlock v. City of Blytheville*, 2019 Ark. 302, 586 S.W.3d 155 (2019).

§ 13. Illegal exactions.

CASE NOTES

ANALYSIS

Appeal.

Complaint.

Expenditure of Funds.

—Ballot Title.

—From County Hospital Tax.

Taxes.

—Not a Tax.

Appeal.

Order on appeal in an illegal exaction case was not a final, appealable order because it contemplated further action by the parties and the circuit court. Additionally, the Attorney General did not seek a Rule 54 certificate to certify the issues presented for appeal. Thus, the appeal was dismissed without prejudice. *Ozark Mt. Solid Waste Dist. v. JMS Enters.*, 2021 Ark. 4, 614 S.W.3d 449 (2020).

Complaint.

Citizens' complaint against the Arkansas Department of Transportation did not state a cause of action for an illegal exaction under Ark. Const., Art. 16, § 13, where they did not allege that the department lacked the authority to enter into the agreement with the United States Fish and Wildlife Service (USFWS) or failed to follow any applicable statute, rule, or regulation with regard to the agreement, and the complaint did not allege any wrongdoing on the part of the State at all. The allegation that the USFWS took advantage of the department's highway-expansion project to force unreasonable terms on the state and the

complaint's attempts to assert various contract defenses on the state's behalf were not sufficient to establish a claim for an illegal exaction. *Prince v. Ark. State Hwy. Comm'n*, 2019 Ark. 199, 576 S.W.3d 1 (2019).

Expenditure of Funds.

—Ballot Title.

Trial court did not err in dismissing an illegal-exaction complaint against a city alleging that the sole purpose of a local sales and use tax approved at a special election was to satisfy the city's debt to the federal government and that funds collected in excess of that debt were an illegal exaction. The trial court properly utilized the enabling ordinance and ballot title in determining the approved uses for the excess funds, despite plaintiffs' contention that the court should be permitted to consider evidence other than the ballot title, and it was undisputed that the plain language of the ordinance and ballot title clearly permitted the city to use the funds to pay payroll and employment taxes. *Carlock v. City of Blytheville*, 2019 Ark. 302, 586 S.W.3d 155 (2019).

—From County Hospital Tax.

Circuit court properly rejected plaintiffs' claim that there was an illegal exaction from public funds when the county treasurer sent the funds from the county hospital tax approved by Ark. Const. Amend. 32 to the state to be used to obtain Medicaid matching funds from the federal government before the funds were re-

turned to the county children's hospital; the hospital directed that the money be sent to the state, and the hospital's direction of the funds was tantamount to its receiving the funds, and plaintiff cited no authority for the argument that funds from the hospital tax could not be commingled with other funds. *Blakely v. Ark. Children's Hosp.*, 2019 Ark. App. 568, 590 S.W.3d 199 (2019).

Circuit court properly rejected plaintiff's claim that there was an illegal exaction from public funds as a matter of law because the county children's hospital treated children from outside Pulaski County; the plain language of the ordinance did not restrict use of the hospital tax approved by Ark. Const. Amend. 32 to the treatment of Pulaski County residents. Also, plaintiff failed to challenge the lower court's conclusion that adequate medical care was made available to all children residing in the county. *Blakely v.*

Ark. Children's Hosp., 2019 Ark. App. 568, 590 S.W.3d 199 (2019).

Taxes.

—Not a Tax.

Circuit court properly granted summary judgment in favor of a city and its sewer department in a citizen's illegal exaction suit because the \$5 monthly fee for sewer-system repairs and upgrades, imposed by a city ordinance, was not a tax and thus not an illegal exaction; only those persons who directly benefited from the city's sewer services were required to pay the fee, and the funds collected were accounted for separately and used only for their designated purpose. The \$7,971 surplus also was not a tax, and plaintiff failed to show that the surplus was used for anything other than the repairs. *Watson v. City of Blytheville*, 2020 Ark. 51, 593 S.W.3d 18 (2020).

ARTICLE 19

MISCELLANEOUS PROVISIONS

SECTION.

28. Contributions.

29. Registration as a lobbyist by a former member of the General Assembly.

SECTION.

30. Gifts from lobbyists.

31. Independent citizens commission.

Effective Dates. Acts 2019, No. 661, § 4: Apr. 2, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act establishes certain employment restrictions on former members of the General Assembly that are in the best interests of the state; and that these restrictions should become effective at the earliest opportunity to provide for the full implementation of the act. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2019, No. 694, § 8: Apr. 4, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that under current law the Arkansas Code Revision Commission does not have the authority to correct conflicts occurring when multiple acts amend the same provision of the Arkansas Constitution as expressly permitted by the Arkansas Constitution; that this inability to resolve conflicts makes the law unclear and impossible to publish for review and study by the citizens of the state; and that this act should become effective at the earliest opportunity so that it may be applied to acts enacted by the Ninety-Second General Assembly. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither

approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

§ 22. Constitutional amendments.

CASE NOTES

ANALYSIS

Ballot Title.
Single Subject.

Ballot Title.

This section governed the ballot titles of two ballot issues concerning term limits as nothing in the plain language of Acts 2019, No. 376, which enacted Ark. Code Ann. § 7-9-205, expressly stated that a constitutional amendment proposed by the General Assembly had to be reviewed under Ark. Const., Art. 5, § 1 (“Amendment 7”). *Steele v. Thurston*, 2020 Ark. 320, 609 S.W.3d 357 (2020).

Ballot issues concerning term limits complied with the requirements of this section, as they sufficiently identified and distinguished the proposed amendments from others on the ballot and in the public. *Steele v. Thurston*, 2020 Ark. 320, 609 S.W.3d 357 (2020).

Single Subject.

Ballot issue concerning term limits did not violate the same-subject provision because its parts were reasonably germane to each other and to the general subject of the amendment. *Steele v. Thurston*, 2020 Ark. 320, 609 S.W.3d 357 (2020).

§ 28. Contributions.

(a)(1) It is unlawful for a candidate for public office or a person acting on the candidate’s behalf to:

(A) Accept a contribution from other than:

(i) An individual;

(ii) A political party that meets the definition of a political party under Arkansas Code § 7-1-101;

(iii) A political party that meets the requirements of Arkansas Code § 7-7-205;

(iv) A county political party committee;

(v) A legislative caucus committee; or

(vi) An approved political action committee; or

(B) Accept a contribution in excess of the maximum amount allowed by law per election from:

(i) An individual;

(ii) A political party that meets the definition of a political party under Arkansas Code § 7-1-101;

(iii) A political party that meets the requirements of Arkansas Code § 7-7-205;

(iv) A county political party committee;

(v) A legislative caucus committee; or

(vi) An approved political action committee.

(2) A candidate may accept a contribution or contributions up to the maximum amount allowed by law from a prospective contributor for each election, whether opposed or unopposed.

(b)(1) It is unlawful for an individual, a political party that meets the definition of a political party under Arkansas Code § 7-1-101, a political party that meets the requirements of Arkansas Code § 7-7-205, a county political party committee, a legislative caucus committee, or an approved political action committee to make a contribution to a candidate for public office, or to a person acting on the candidate's behalf, that in the aggregate exceeds the maximum amount allowed by law.

(2) The following entities may make a contribution or contributions up to the maximum amount allowed by law to a candidate, whether opposed or unopposed, for each election:

(A) An individual;

(B) A political party that meets the definition of a political party under Arkansas Code § 7-1-101;

(C) A political party that meets the requirements of Arkansas Code § 7-7-205;

(D) A county political party committee;

(E) A legislative caucus committee; or

(F) An approved political action committee.

(c) As used in this section:

(1)(A) "Approved political action committee" means any person that:

(i) Receives contributions from one (1) or more persons in order to make contributions to a candidate, ballot question committee, legislative question committee, political party, county political party committee, or other political action committee;

(ii) Does not accept any contribution or cumulative contributions in excess of five thousand dollars (\$5,000) from any person in any calendar year; and

(iii) Registers pursuant to Arkansas Code § 7-6-215 prior to making contributions.

(B) "Approved political action committee" does not include an organized political party as defined in § 7-1-101, a county political party committee, the candidate's own campaign committee, an exploratory committee, or a ballot question committee or legislative question committee as defined in § 7-9-402;

(2) "Candidate" means an individual who has knowingly and willingly taken affirmative action, including solicitation of funds, for the purpose of seeking nomination for or election to any public office;

(3)(A) "Contribution" or "contributions" means, whether direct or indirect, advances, deposits, or transfers of funds, contracts, or obligations, whether or not legally enforceable, payments, gifts, subscriptions, assessments, payment for services, dues, advancements, forbearance, loans, or pledges or promises of money or anything of value, whether or not legally enforceable, to a candidate, committee, or holder of elective office made for the purpose of influencing the nomination or election of any candidate.

(B)(i) "Contribution" or "contributions" includes the purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events; the granting of discounts or rebates by television

and radio stations and newspapers not extended on an equal basis to all candidates for the same office; and any payments for the services of any person serving as an agent of a candidate or committee by a person other than the candidate or committee or persons whose expenditures the candidates or committee must report under Arkansas law.

(ii) "Contribution" or "contributions" further includes any transfer of anything of value received by a committee from another committee.

(C) "Contribution" or "contributions" does not include noncompensated, nonreimbursed, volunteer personal services or travel;

(4) "County political party committee" means a person that:

(A) Is organized at the county level for the purpose of supporting its affiliate party and making contributions;

(B) Is recognized by an organized political party, as defined in Arkansas Code § 7-1-101, as being affiliated with that political party;

(C) Receives contributions from one (1) or more persons in order to make contributions to a candidate, ballot question committee, legislative question committee, political party, political action committee, or other county political party committee;

(D) Does not accept any contribution or cumulative contributions in excess of five thousand dollars (\$5,000) from any person in any calendar year; and

(E) Registers pursuant to Arkansas Code § 7-6-226 prior to making contributions;

(5)(A) "Election" means each election held to nominate or elect a candidate to any public office, including school elections.

(B) For the purposes of this section, a preferential primary, a general primary, a special election, and a general election shall each constitute a separate election;

(6) "Expenditure" or "expenditures" means a purchase, payment, distribution, gift, loan, or advance of money or anything of value, and a contract, promise, or agreement to make an expenditure, made for the purpose of influencing the nomination or election of any candidate;

(7)(A) "Exploratory committee" means a person that receives contributions which are held to be transferred to the campaign of a single candidate in an election.

(B) "Exploratory committee" does not include:

(i) A political party:

(a) That meets the definition of a political party under Arkansas Code § 7-1-101; or

(b) A political party that meets the requirements of Arkansas Code § 7-7-205; or

(ii) The candidate's own campaign committee;

(8)(A) "Legislative caucus committee" means a person that is composed exclusively of members of the General Assembly, that elects or appoints officers and recognizes identified legislators as members of the organization, and that exists for research and other support of policy development and interests that the membership hold in common.

(B) "Legislative caucus committee" includes, but is not limited to, a political party caucus of the General Assembly, the Senate, or the House of Representatives.

(C) An organization whose only nonlegislator members are the Lieutenant Governor or the Governor is a "legislative caucus committee" for the purposes of this section;

(9)(A) "Person" means any individual, proprietorship, firm, partnership, joint venture, syndicate, labor union, business trust, company, corporation, association, committee, or any other organization or group of persons acting in concert.

(B) "Person" includes:

(i) A political party that meets the definition of a political party under Arkansas Code § 7-1-101 or a political party that meets the requirements of Arkansas Code § 7-7-205;

(ii) A county political party committee; and

(iii) A legislative caucus committee; and

(10) "Public office" means an office created by or under authority of the laws of the State of Arkansas or of a subdivision thereof that is filled by the voters, except a federal office.

(d)(1) A person who knowingly violates this section is guilty of a Class A misdemeanor.

(2) In addition to the penalty under subdivision (d)(1) of this section, the General Assembly shall provide by law for this section to be under the jurisdiction of the Arkansas Ethics Commission, including without limitation authorization of the following actions by the Arkansas Ethics Commission:

(A) Promulgating reasonable rules to implement and administer this section as necessary;

(B) Issuing advisory opinions and guidelines on the requirements of this section; and

(C) Investigating complaints of alleged violations of this section and rendering findings and disciplinary action for such complaints.

(e)(1)(A) Except as provided in subdivision (e)(1)(B) of this section, the General Assembly, in the same manner as required for amendment of laws initiated by the people, may amend this section so long as such amendments are germane to this section and consistent with its policy and purposes.

(B) The General Assembly may amend subsection (d) of this section by a majority vote of each house.

(2)(A) If an act of the General Assembly amends this section, the Arkansas Code Revision Commission may, by a majority vote of the Arkansas Code Revision Commission, make the following revisions to the act so long as the revisions do not change the substance or meaning of the act:

(i) Correct the spelling of words;

(ii) Change capitalization for the purpose of uniformity;

(iii) Correct manifest typographical and grammatical errors;

(iv) Correct manifest errors in references to laws and other documents;

- (v) Correct manifest errors in internal reference numbers;
- (vi) Number, renumber, redesignate, and rearrange this section;
- (vii) Change internal reference numbers to agree with renumbered sections, subsections, subdivisions, or other provisions of law;
- (viii) Insert or delete hyphens in words to follow correct grammatical usage;

(ix) Change numerals or symbols to words or vice versa and add figures or words if they are merely repetitions of written words or vice versa for purposes of uniformity and style;

(x) Change the form of nouns, pronouns, and verbs for purposes of style and grammar;

(xi) Correct punctuation; and

(xii) Change gender-specific language to gender-neutral language.

(B)(i) If more than one (1) act amending this section is enacted by the General Assembly during the same session, the Arkansas Code Revision Commission may, by a majority vote of the Arkansas Code Revision Commission, revise this section as necessary so that all of the enactments shall be given effect, including without limitation renumbering, redesignating, and rearranging subsections and subdivisions of this section.

(ii) In the event that one (1) or more acts amending this section result in an irreconcilable conflict with one (1) or more other acts amending this section enacted during the same session, the Arkansas Code Revision Commission may, by a majority vote of the Arkansas Code Revision Commission, revise this section so that the conflicting provision of the last enactment prevails.

(3) If the Arkansas Code Revision Commission makes revisions under subdivision (e)(2) of this section, the Arkansas Code Revision Commission shall file a report with the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Governor that:

(A) Explains the revisions made under subdivision (e)(2) of this section; and

(B) Includes the text of this section as amended by the revisions made under subdivision (e)(2) of this section. [As added by Const. Amend. 94; as amended by Acts 2019, No. 694, § 1.]

Legislative Amendments. The 2019 amendment redesignated former (e)(1) and (e)(2) as (e)(1)(A) and (e)(1)(B); substituted “(e)(1)(B)” for “(e)(2)” in (e)(1)(A); and added (e)(2) and (e)(3).

§ 29. Registration as a lobbyist by a former member of the General Assembly.

(a) A former member of the General Assembly shall not take the following actions until two (2) years after the expiration of the term of office for which he or she was elected:

- (1) Register as a lobbyist under Arkansas Code § 21-8-601 et seq.; or
- (2) Enter into employment as the director of an:

(A) Educational cooperative under The Public School Educational Cooperative Act of 1981, § 6-13-901 et seq.; or

(B) Area agency on aging.

(b)(1) Except as provided in subdivision (b)(2) of this section, subsection (a) of this section applies to a person elected or reelected to the General Assembly on or after November 6, 2018.

(2) Subdivision (a)(1) of this section shall apply to a person elected or reelected to the General Assembly on or after November 4, 2014.

(c)(1) A person who knowingly violates this section is guilty of a Class D felony.

(2) In addition to the penalty under subdivision (c)(1) of this section, the General Assembly shall provide by law for this section to be under the jurisdiction of the Arkansas Ethics Commission, including without limitation authorization of the following actions by the Arkansas Ethics Commission:

(A) Promulgating reasonable rules to implement and administer this section as necessary;

(B) Issuing advisory opinions and guidelines on the requirements of this section; and

(C) Investigating complaints of alleged violations of this section and rendering findings and disciplinary action for such complaints.

(d)(1)(A) Except as provided in subdivision (d)(1)(B) of this section, the General Assembly, in the same manner as required for amendment of laws initiated by the people, may amend this section so long as such amendments are germane to this section and consistent with its policy and purposes.

(B) The General Assembly may amend subsection (c) of this section by a majority vote of each house.

(2)(A) If an act of the General Assembly amends this section, the Arkansas Code Revision Commission may, by a majority vote of the Arkansas Code Revision Commission, make the following revisions to the act so long as the revisions do not change the substance or meaning of the act:

(i) Correct the spelling of words;

(ii) Change capitalization for the purpose of uniformity;

(iii) Correct manifest typographical and grammatical errors;

(iv) Correct manifest errors in references to laws and other documents;

(v) Correct manifest errors in internal reference numbers;

(vi) Number, renumber, redesignate, and rearrange this section;

(vii) Change internal reference numbers to agree with renumbered sections, subsections, subdivisions, or other provisions of law;

(viii) Insert or delete hyphens in words to follow correct grammatical usage;

(ix) Change numerals or symbols to words or vice versa and add figures or words if they are merely repetitions of written words or vice versa for purposes of uniformity and style;

(x) Change the form of nouns, pronouns, and verbs for purposes of style and grammar;

(xi) Correct punctuation; and

(xii) Change gender-specific language to gender-neutral language.

(B)(i) If more than one (1) act amending this section is enacted by the General Assembly during the same session, the Arkansas Code Revision Commission may, by a majority vote of the Arkansas Code Revision Commission, revise this section as necessary so that all of the enactments shall be given effect, including without limitation renumbering, redesignating, and rearranging subsections and subdivisions of this section.

(ii) In the event that one (1) or more acts amending this section result in an irreconcilable conflict with one (1) or more other acts amending this section enacted during the same session, the Arkansas Code Revision Commission may, by a majority vote of the Arkansas Code Revision Commission, revise this section so that the conflicting provision of the last enactment prevails.

(3) If the Arkansas Code Revision Commission makes revisions under subdivision (d)(2) of this section, the Arkansas Code Revision Commission shall file a report with the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Governor that:

(A) Explains the revisions made under subdivision (d)(2) of this section; and

(B) Includes the text of this section as amended by the revisions made under subdivision (d)(2) of this section. [As added by Const. Amend. 94; as amended by Acts 2019, No. 661, § 1; 2019, No. 694, § 2.]

Legislative Amendments. The 2019 amendment by No. 661 substituted “take the following actions” for “be eligible to be registered as a lobbyist under Arkansas Code § 21-8-601 et seq.” in the introductory language of (a), and added (a)(1) and (a)(2); redesignated (b) as (b)(1), in (b)(1), inserted “Except as provided in subdivision (b)(2) of this section”, substituted “a

person” for “all persons”, and substituted “November 6, 2018” for “November 4, 2014”, and added (b)(2).

The 2019 amendment by No. 694 redesignated former (d)(1) and (d)(2) as (d)(1)(A) and (d)(1)(B); substituted “(d)(1)(B)” for “(d)(2)” in (d)(1)(A); and added (d)(2) and (d)(3).

§ 30. Gifts from lobbyists.

(a) Persons elected or appointed to the following offices shall not knowingly or willfully solicit or accept a gift from a lobbyist, a person acting on behalf of a lobbyist, or a person employing or contracting with a lobbyist:

- (1) Governor;
- (2) Lieutenant Governor;
- (3) Secretary of State;
- (4) Treasurer of State;
- (5) Auditor of State;
- (6) Attorney General;
- (7) Commissioner of State Lands;

(8) Member of the General Assembly;
(9) Chief Justice of the Supreme Court;
(10) Justice of the Supreme Court;
(11) Chief Judge of the Court of Appeals;
(12) Judge of the Court of Appeals;
(13) Circuit court judge;
(14) District court judge;
(15) Prosecuting attorney; and
(16) Member of the independent citizens commission for the purpose of setting salaries of elected constitutional officers of the executive department, members of the General Assembly, justices, and judges under Article 19, § 31, of this Constitution.

(b) As used in this section:

(1)(A) "Administrative action" means a decision on, or proposal, consideration, or making of a rule, regulation, ratemaking proceeding, or policy action by a governmental body.

(B) "Administrative action" does not include ministerial action;

(2)(A) "Gift" means:

(i) Any payment, entertainment, service, or anything of value, unless consideration of equal or greater value has been given therefor; or

(ii) Any advance or loan.

(B) "Gift" does not include:

(i)(a) Informational material such as books, reports, pamphlets, calendars, or periodicals informing a person elected or appointed to an office under subsection (a) of this section regarding his or her official duties.

(b) Payments for travel or reimbursement for any expenses are not informational material;

(ii) Gifts that are not used and which, within thirty (30) days after receipt, are returned to the donor;

(iii) Gifts from the spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin of a person elected or appointed to an office under subsection (a) of this section, or the spouse of any of these persons, unless the person is acting as an agent or intermediary for any person not covered by this subdivision (b)(2)(B)(iii);

(iv) Anything of value that is readily available to the general public at no cost;

(v)(a)(1) Food or drink available at a planned activity to which a specific governmental body is invited, including without limitation a governmental body to which a person elected or appointed to an office under subsection (a) of this section is not a member.

(2) If a committee of the General Assembly is invited to a planned activity under subdivision (b)(2)(B)(v)(a)(1) of this section, only members of the committee of the General Assembly may accept food or drink at the planned activity.

(b)(1) As used in this subdivision (b)(2)(B)(v), “planned activity” means an event for which a written invitation is distributed electronically or by other means by the lobbyist, person acting on behalf of a lobbyist, or a person employing or contracting with a lobbyist to the members of the specific governmental body at least twenty-four (24) hours before the event.

(2) As used in this subdivision (b)(2)(B)(v), “planned activity” does not include food or drink available at a meeting of a specific governmental body for which the person elected or appointed to an office under subsection (a) of this section is entitled to receive per diem for attendance at the meeting.

(c) A lobbyist, a person acting on behalf of a lobbyist, or a person employing or contracting with a lobbyist shall not offer or pay for food or drink at more than one (1) planned activity in a seven-day period;

(vi)(a) Payments by regional or national organizations for travel to regional or national conferences at which the State of Arkansas is requested to be represented by a person or persons elected or appointed to an office under subsection (a) of this section.

(b) As used in this subdivision (b)(2)(B)(vi), “travel” means transportation, lodging, and conference registration fees.

(c) This section does not prohibit the acceptance of:

(1) Food, drink, informational materials, or other items included in the conference registration fee; and

(2) Food and drink at events coordinated through the regional or national conference and provided to persons registered to attend the regional or national conference;

(vii) Campaign contributions;

(viii) Any devise or inheritance;

(ix) Salaries, benefits, services, fees, commissions, expenses, or anything of value in connection with:

(a) The employment or occupation of a person elected or appointed to an office under subsection (a) of this section or his or her spouse so long as the salary, benefit, service, fee, commission, expense, or anything of value is solely connected with the person’s employment or occupation and is unrelated to and does not arise from the duties or responsibilities of the office to which the person has been elected or appointed; or

(b) Service as an officer, director, or board member of a corporation, a firm registered to do business in the state, or other organization that files a state and federal tax return or is an affiliate of an organization that files a state and federal tax return by a person elected or appointed to an office under subsection (a) of this section or his or her spouse so long as the salary, benefit, service, fee, commission, expense, or anything of value is solely connected with the person’s service as an officer, director, or board member and is

unrelated to and does not arise from the duties or responsibilities of the office to which the person has been elected or appointed;

(x) A personalized award, plaque, or trophy with a value of one hundred fifty dollars (\$150) or less;

(xi)(a) The use of one (1) or more rooms or facilities owned, operated, or otherwise utilized by a state agency or political subdivision of the state for the purpose of conducting a meeting of a specific governmental body.

(b) As used in this subdivision (b)(2)(B)(xi):

(1) "Rooms or facilities" includes without limitation property belonging to a state agency or political subdivision used in connection with a meeting of a specific governmental body such as projectors, microphones, and computer equipment; and

(2) "State agency" means every department, division, office, board, commission, and institution of this state, including state-supported institutions of higher education;

(xii) Nonalcoholic beverages provided to attendees at a meeting of a civic, social, or cultural organization or group;

(xiii) Food and nonalcoholic beverages provided to participants in a bona fide panel, seminar, or speaking engagement at which the audience is a civic, social, or cultural organization or group; and

(xiv) Anything of value provided by a recognized political party when serving as the host of the following events to all attendees as part of attendance at the event:

(a) The official swearing-in, inaugural, and recognition events of constitutional officers and members of the General Assembly; and

(b) An official event of a recognized political party so long as all members of either house of the General Assembly affiliated with the recognized political party are invited to the official event;

(3) "Governmental body" or "governmental bodies" means an office, department, commission, council, board, committee, legislative body, agency, or other establishment of the executive, judicial, or legislative branch of the state, municipality, county, school district, improvement district, or any political district or subdivision thereof;

(4)(A) "Income" means any money or anything of value received or to be received as a claim for future services, whether in the form of a retainer, fee, salary, expense, allowance, forbearance, forgiveness, interest, dividend, royalty, rent, or any other form of recompense or any combination thereof.

(B) "Income" includes a payment made under obligation for services or other value received;

(5) "Legislative action" means introduction, sponsorship, consideration, debate, amendment, passage, defeat, approval, veto, or any other official action or nonaction on any bill, ordinance, law, resolution, amendment, nomination, appointment, report, or other matter pending or proposed before a committee or house of the General Assembly, a quorum court, or a city council or board of directors of a municipality;

(6) "Legislator" means a person who is a member of the General Assembly, a quorum court of a county, or the city council or board of directors of a municipality;

(7) "Lobbying" means communicating directly or soliciting others to communicate with a public servant with the purpose of influencing legislative action or administrative action;

(8)(A) "Lobbyist" means a person who:

(i) Receives income or reimbursement in a combined amount of four hundred dollars (\$400) or more in a calendar quarter for lobbying one (1) or more governmental bodies;

(ii) Expends four hundred dollars (\$400) or more in a calendar quarter for lobbying one (1) or more governmental bodies, excluding the cost of personal travel, lodging, meals, or dues; or

(iii) Expends four hundred dollars (\$400) or more in a calendar quarter, including postage, for the express purpose of soliciting others to communicate with a public servant to influence any legislative action or administrative action of one (1) or more governmental bodies unless the communication has been filed with the Secretary of State or the communication has been published in the news media. If the communication is filed with the Secretary of State, the filing shall include the approximate number of recipients.

(B) "Lobbyist" does not include a recognized political party;

(9)(A) "Person" means a business, individual, union, association, firm, committee, club, or other organization or group of persons.

(B) As used in subdivision (b)(9)(A) of this section, "business" includes without limitation a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, receivership, trust, or any legal entity through which business is conducted;

(10)(A) "Public appointee" means an individual who is appointed to a governmental body.

(B) "Public appointee" does not include an individual appointed to an elective office;

(11)(A) "Public employee" means an individual who is employed by a governmental body or who is appointed to serve a governmental body.

(B) "Public employee" does not include a public official or a public appointee;

(12) "Public official" means a legislator or any other person holding an elective office of any governmental body, whether elected or appointed to the office, and shall include such persons during the time period between the date they were elected and the date they took office;

(13) "Public servant" means all public officials, public employees, and public appointees;

(14)(A) "Recognized political party" means a political party that:

(i) At the last preceding general election polled for its candidate for Governor in the state or nominees for presidential electors at least three percent (3%) of the entire vote cast for the office; or

(ii) Has been formed by the petition process under § 7-7-205.

(B) When a recognized political party fails to obtain three percent (3%) of the total votes cast in an election for the office of Governor or nominees for presidential electors, it shall cease to be a recognized political party; and

(15)(A) "Advance or loan" means a sum of money that is borrowed with the expectation that it be paid back, regardless of whether interest is charged.

(B) "Advance or loan" does not include an advance or loan made in the ordinary course of business by a:

(i) Financial institution; or

(ii) Business that regularly and customarily extends credit.

(c)(1) A person who knowingly violates this section is guilty of a Class B misdemeanor.

(2) In addition to the penalty under subdivision (c)(1) of this section, the General Assembly shall provide by law for this section to be under the jurisdiction of the Arkansas Ethics Commission, including without limitation authorization of the following actions by the Arkansas Ethics Commission:

(A) Promulgating reasonable rules to implement and administer this section as necessary;

(B) Issuing advisory opinions and guidelines on the requirements of this section; and

(C) Investigating complaints of alleged violations of this section and rendering findings and disciplinary action for such complaints.

(3)(A) It is an affirmative defense to prosecution or disciplinary action under subdivisions (c)(1) and (2) of this section that a person elected or appointed to an office under subsection (a) of this section takes one (1) of the following actions within thirty (30) days of discovering or learning of an unintentional violation of this section:

(i) Returns the gift to the donor; or

(ii) If the gift is not returnable, pays the donor consideration that is equal to or greater than the value of the gift.

(B)(i) The Arkansas Ethics Commission shall not proceed with an investigation of an alleged violation of this section if the Arkansas Ethics Commission determines that a person would be eligible to raise the affirmative defense under subdivision (c)(3)(A) of this section.

(ii) If the Arkansas Ethics Commission does not proceed with an investigation of an alleged violation under subdivision (c)(3)(B)(i) of this section, the person shall not be considered to have committed a violation.

(C) This subdivision (c)(3) shall not be construed to authorize a person to knowingly or willfully solicit or accept a gift in violation of this section.

(d)(1)(A) Except as provided in subdivision (d)(1)(B) of this section, the General Assembly, in the same manner as required for amendment of laws initiated by the people, may amend this section so long as such amendments are germane to this section and consistent with its policy and purposes.

(B) The General Assembly may amend subsection (c) of this section by a majority vote of each house.

(2)(A) If an act of the General Assembly amends this section, the Arkansas Code Revision Commission may, by a majority vote of the Arkansas Code Revision Commission, make the following revisions to the act so long as the revisions do not change the substance or meaning of the act:

- (i) Correct the spelling of words;
- (ii) Change capitalization for the purpose of uniformity;
- (iii) Correct manifest typographical and grammatical errors;
- (iv) Correct manifest errors in references to laws and other documents;
- (v) Correct manifest errors in internal reference numbers;
- (vi) Number, renumber, redesignate, and rearrange this section;
- (vii) Change internal reference numbers to agree with renumbered sections, subsections, subdivisions, or other provisions of law;
- (viii) Insert or delete hyphens in words to follow correct grammatical usage;
- (ix) Change numerals or symbols to words or vice versa and add figures or words if they are merely repetitions of written words or vice versa for purposes of uniformity and style;
- (x) Change the form of nouns, pronouns, and verbs for purposes of style and grammar;
- (xi) Correct punctuation; and
- (xii) Change gender-specific language to gender-neutral language.

(B)(i) If more than one (1) act amending this section is enacted by the General Assembly during the same session, the Arkansas Code Revision Commission may, by a majority vote of the Arkansas Code Revision Commission, revise this section as necessary so that all of the enactments shall be given effect, including without limitation renumbering, redesignating, and rearranging subsections and subdivisions of this section.

(ii) In the event that one (1) or more acts amending this section result in an irreconcilable conflict with one (1) or more other acts amending this section enacted during the same session, the Arkansas Code Revision Commission may, by a majority vote of the Arkansas Code Revision Commission, revise this section so that the conflicting provision of the last enactment prevails.

(3) If the Arkansas Code Revision Commission makes revisions under subdivision (d)(2) of this section, the Arkansas Code Revision Commission shall file a report with the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Governor that:

(A) Explains the revisions made under subdivision (d)(2) of this section; and

(B) Includes the text of this section as amended by the revisions made under subdivision (d)(2) of this section. [As added by Const. Amend. 94; as amended by Acts 2015, No. 1280, § 1; 2017, No. 207,

§ 1; 2017, No. 312, § 1; 2017, No. 1108, §§ 1, 2; 2017 (1st Ex. Sess.), No. 2, § 2; 2017 (1st Ex. Sess.), No. 9, § 2; 2019, No. 694, § 3.]

Legislative Amendments. The 2019 amendment redesignated former (d)(1) and added (d)(2) and (d)(3). and (d)(2) as (d)(1)(A) and (d)(1)(B); sub-

§ 31. Independent citizens commission.

(a) As provided in this section, members of the General Assembly shall have no authority to set salaries for:

- (1) Their positions as members of the General Assembly;
- (2) Elected constitutional officers of the executive department;
- (3) Justices;
- (4) Judges; and
- (5) Prosecuting attorneys.

(b)(1) There is created an independent citizens commission for the purpose of setting salaries of elected constitutional officers of the executive department, members of the General Assembly, justices, judges, and prosecuting attorneys as provided in this section.

(2)(A) Each member of the independent citizens commission shall serve a term of four (4) years.

(B) A person shall not serve more than two (2) terms on the independent citizens commission.

(3) The independent citizens commission shall consist of seven (7) members as follows:

(A) Two (2) members appointed by the Governor;

(B) Two (2) members appointed by the President Pro Tempore of the Senate;

(C) Two (2) members appointed by the Speaker of the House of Representatives; and

(D) One (1) member appointed by the Chief Justice of the Supreme Court.

(4) Vacancies on the independent citizens commission shall be filled in the manner of the original appointment.

(5) The independent citizens commission shall elect from its membership:

(A) A chair; and

(B) Other officers deemed necessary by the independent citizens commission.

(6) Four (4) members of the independent citizens commission shall constitute a quorum for the purpose of transacting business.

(7) A majority vote of the total membership of the independent citizens commission is required for any action of the independent citizens commission.

(8) The office of the Auditor of State shall provide staff assistance as may be requested by the independent citizens commission.

(c)(1) In making appointments to the independent citizens commission, the Governor, the President Pro Tempore of the Senate, the

Speaker of the House of Representatives, and the Chief Justice of the Supreme Court shall consider racial, gender, and geographical diversity.

(2) A member of the independent citizens commission shall be:

(A) A citizen of the United States;

(B) A resident of the State of Arkansas for at least two (2) years preceding his or her appointment;

(C) A qualified elector; and

(D) At least twenty-five (25) years of age.

(3) The following persons shall not serve on the independent citizens commission:

(A) A person holding civil office;

(B) An employee of the State of Arkansas;

(C) A person required by law to register as a lobbyist; or

(D)(i) An immediate family member of:

(a) A person holding civil office;

(b) An employee of the State of Arkansas; or

(c) A person required by law to register as a lobbyist.

(ii) As used in subdivision (c)(3)(D)(i) of this section, "immediate family member" means a person's spouse, a child of the person or spouse, a child's spouse, a parent of the person or the spouse, a brother or sister of the person or the spouse, anyone living or residing in the same residence or household with the person or the spouse, or anyone acting or serving as an agent of the person.

(d) The independent citizens commission shall have the duty to review and adjust as it deems necessary the salaries for the following positions:

(1) Governor;

(2) Lieutenant Governor;

(3) Attorney General;

(4) Secretary of State;

(5) Treasurer of State;

(6) Auditor of State;

(7) Commissioner of State Lands;

(8) Member of the General Assembly;

(9) Chief Justice of the Supreme Court;

(10) Justice of the Supreme Court;

(11) Chief Judge of the Court of Appeals;

(12) Judge of the Court of Appeals;

(13) Circuit court judge;

(14) District court judge; and

(15) Prosecuting attorney.

(e)(1) The salaries of the positions under subsection (d) of this section:

(A) Shall not be subject to appropriation by the General Assembly; and

(B) Shall be paid from the Constitutional Officers Fund or its successor fund or fund accounts in the amount determined by the independent citizens commission.

(2)(A) If the independent citizens commission proposes to adjust a salary for a position under subsection (d) of this section, the independent citizens commission shall:

(i) Provide notice to the public of the proposed salary adjustment;
(ii) Make available to the public any data reviewed by the independent citizens commission in determining the proposed salary adjustment; and

(iii)(a) Afford the public a reasonable opportunity to provide public comment on the proposed salary adjustment.

(b) The opportunity for public comment under subdivision (e)(2)(A)(iii)(a) of this section shall not exceed forty-five (45) days.

(B) A proposed salary adjustment of the independent citizens commission shall not be considered a rule under the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.

(3) Upon satisfying (e)(2)(A)(i)-(iii) of this section, the independent citizens commission may file the adjusted salary with the Auditor of State.

(4) An adjustment to a salary shall be effective ten (10) days after it is filed with the Auditor of State.

(5) When considering whether or not to adjust a salary for a position under subsection (d) of this section, the independent citizens commission shall include in its considerations the overall economic condition of the state at that time.

(f)(1)(A) The independent citizens commission, by a majority vote of the total membership of the independent citizens commission cast during its first regularly scheduled meeting of each calendar year, may authorize payment to its members of a stipend not to exceed eighty-five dollars (\$85.00) per day for each meeting attended or for any day while performing any proper business of the independent citizens commission.

(B) Stipends shall be paid by the Auditor of State from funds available for that purpose.

(2) Members of the independent citizens commission shall receive no other compensation, expense reimbursement, or in-lieu-of payments.

(g)(1) The independent citizens commission shall provide that the salaries of circuit judges be uniform throughout the state.

(2)(A) Except as provided in this subdivision (g)(2), the independent citizens commission may increase or diminish the salaries for the positions under subsection (d) of this section.

(B) The independent citizens commission may increase but not diminish the salaries for the positions under subdivisions (d)(9)-(14) of this section.

(3)(A) Except as provided in subdivision (g)(3)(B) and subdivision (m)(4)(B) of this section, no single adjustment at any one (1) time to a salary by the independent citizens commission shall exceed fifteen percent (15%) of the salary to be increased or diminished.

(B) Salary adjustments resulting from the initial review of the independent citizens commission under subdivision (i)(3) of this section shall not be subject to subdivision (g)(3)(A) of this section.

(4) The independent citizens commission shall provide for salaries to be paid in monthly installments.

(h) Salaries for the positions under subsection (d) of this section shall continue as existing on November 4, 2014, until adjusted by the independent citizens commission.

(i)(1) Initial members of the independent citizens commission shall be appointed within thirty (30) days of November 5, 2014.

(2) The President Pro Tempore of the Senate shall call the first meeting of the independent citizens commission, which shall occur within forty-five (45) days of November 5, 2014.

(3)(A) The independent citizens commission:

(i) Shall complete an initial review of the salaries for the positions under subsection (d) of this section no later than ninety (90) days after November 5, 2014; and

(ii) May file any adjustments in salary resulting from the initial review with the Auditor of State upon satisfying (e)(2)(A)(i)-(iii) of this section.

(B) No later than ninety (90) days after November 5, 2014, the independent citizens commission shall also provide recommendations to the President Pro Tempore of the Senate and the Speaker of the House of Representatives concerning the amounts to be paid to members of the General Assembly for:

(i) Per diem;

(ii) Reimbursement for expenses; and

(iii) Reimbursement for mileage.

(4)(A) After completing the initial review under subdivision (i)(3) of this section, the independent citizens commission shall meet as necessary to review the salaries of the positions under subsection (d) of this section but shall not meet less than one (1) time per year.

(B) The independent citizens commission may adjust the salaries of the positions under subsection (d) of this section as provided in this section as it deems necessary.

(j) No later than ninety (90) days before the commencement of a regular session, the independent citizens commission shall provide recommendations to the President Pro Tempore of the Senate and the Speaker of the House of Representatives concerning the amounts to be paid to members of the General Assembly for:

(1) Per diem;

(2) Reimbursement for expenses; and

(3) Reimbursement for mileage.

(k) The independent citizens commission shall be subject to the Freedom of Information Act of 1967, Arkansas Code § 25-19-101 et seq.

(l)(1) The General Assembly, in the same manner as required for amendment of laws initiated by the people, may amend this section, so long as such amendments are germane to this section and consistent with its policy and purposes.

(2)(A) If an act of the General Assembly amends this section, the Arkansas Code Revision Commission may, by a majority vote of the

Arkansas Code Revision Commission, make the following revisions to the act so long as the revisions do not change the substance or meaning of the act:

- (i) Correct the spelling of words;
- (ii) Change capitalization for the purpose of uniformity;
- (iii) Correct manifest typographical and grammatical errors;
- (iv) Correct manifest errors in references to laws and other documents;
- (v) Correct manifest errors in internal reference numbers;
- (vi) Number, renumber, redesignate, and rearrange this section;
- (vii) Change internal reference numbers to agree with renumbered sections, subsections, subdivisions, or other provisions of law;
- (viii) Insert or delete hyphens in words to follow correct grammatical usage;
- (ix) Change numerals or symbols to words or vice versa and add figures or words if they are merely repetitions of written words or vice versa for purposes of uniformity and style;
- (x) Change the form of nouns, pronouns, and verbs for purposes of style and grammar;
- (xi) Correct punctuation; and
- (xii) Change gender-specific language to gender-neutral language.

(B)(i) If more than one (1) act amending this section is enacted by the General Assembly during the same session, the Arkansas Code Revision Commission may, by a majority vote of the Arkansas Code Revision Commission, revise this section as necessary so that all of the enactments shall be given effect, including without limitation renumbering, redesignating, and rearranging subsections and subdivisions of this section.

(ii) In the event that one (1) or more acts amending this section result in an irreconcilable conflict with one (1) or more acts amending this section enacted during the same session, the Arkansas Code Revision Commission may, by a majority vote of the Arkansas Code Revision Commission, revise this section so that the conflicting provision of the last enactment prevails.

(3) If the Arkansas Code Revision Commission makes revisions under subdivision (1)(2) of this section, the Arkansas Code Revision Commission shall file a report with the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Governor that:

(A) Explains the revisions made under subdivision (1)(2) of this section; and

(B) Includes the text of this section as amended by the revisions made under subdivision (1)(2) of this section.

(m)(1) Salaries for the positions under subdivision (d)(15) of this section shall continue as existing on November 4, 2014, until adjusted by the independent citizens commission.

(2) No later than thirty (30) days after March 20, 2015, the independent citizens commission shall begin a study of salaries for the positions under subdivision (d)(15) of this section.

(3) The independent citizens commission shall complete its review of the salaries for the positions under subdivision (d)(15) of this section no later than thirty (30) days after the date it begins its study under subdivision (m)(2) of this section.

(4)(A) If at the conclusion of its study under subdivision (m)(2) of this section the independent citizens commission determines that a salary revision for the positions under subdivision (d)(15) is appropriate, the independent citizens commission shall propose an adjustment under subsection (e) of this section.

(B) Initial salary revisions for the positions under subdivision (d)(15) resulting from the study under subdivision (m)(2) of this section are not subject to subdivision (g)(3)(A) of this section. [As added by Const. Amend. 94; as amended by Acts 2015, No. 559, § 2; 2019, No. 694, § 4.]

Legislative Amendments. The 2019 amendment redesignated former (l) as (l)(1) and added (l)(2) and (l)(3).

AMENDMENTS TO THE CONSTITUTION OF ARKANSAS
OF 1874

AMENDMENT.

- 51. VOTER REGISTRATION.
- 62. LOCAL CAPITAL IMPROVEMENT BONDS.
- 73. ARKANSAS TERM LIMITATION AMENDMENT.
- 89. [GOVERNMENTAL BONDS AND LOANS].
- 98. ARKANSAS MEDICAL MARIJUANA AMENDMENT OF 2016.

AMENDMENT.

- 101. [TRANSPORTATION SALES TAX CONTINUATION].
- 102. ARKANSAS TERM LIMITS AMENDMENT.

AMEND. 14. LOCAL ACTS.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Michael Stiritz, Note: Ballot Initiatives and Direct Democracy—Amendment 100 to the Arkansas Constitution: Constitutional Issues Surrounding Ballot Initiatives and Local Legislation, 43 U. Ark. Little Rock L. Rev. 87 (2021).

AMEND. 20. STATE BONDS.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Chad J. Pomeroy, Can God Create a Rock So Heavy That He Cannot Lift It? Outlawing Pensions Under State Constitutions, 42 U. Ark. Little Rock L. Rev. 91 (2019).

AMEND. 21. CRIMINAL PROSECUTIONS — SALARIES OF PROSECUTORS.

§ 1. Prosecution by indictment or information.

CASE NOTES

Separation of Powers.

While the juvenile was charged with second-degree terroristic threatening and the circuit court in effect sua sponte amended the charge when it found the juvenile guilty of second-degree assault, and second-degree assault is not a lesser-

included offense of second-degree terroristic threatening, the juvenile failed to raise his due process challenge at the circuit court level and therefore failed to preserve the issue for appellate review. I.K. v. State, 2018 Ark. App. 584, 564 S.W.3d 579 (2018).

AMEND. 28. REGULATING PRACTICE OF LAW.

CASE NOTES

ANALYSIS

Practice of Law.

—Personal Representatives.

Practice of Law.

—Personal Representatives.

Circuit court did not abuse its discretion when it dismissed a personal representative's wrongful death complaint as being untimely filed because the original pro se complaint filed by plaintiff, a nonlawyer,

as the personal representative of the estate constituted the unauthorized practice of law and was a nullity and could not be amended; by the time an attorney filed a complaint, more than three years had passed since the decedent's death, and the personal representative's claims were barred by the three-year statute of limitations. *Henson v. Craddock*, 2020 Ark. 24, 593 S.W.3d 10 (2020).

AMEND. 29. FILLING VACANCIES IN OFFICE.

§ 2. Ineligible persons — Nepotism.

CASE NOTES

Election to Different Division.

Defendant was not entitled to a writ of coram nobis on his claim that the State wrongfully withheld facts about the trial judge from the defense; although the trial judge was appointed to serve in one judi-

cial division, he was subsequently elected to serve in another judicial division, and thus, under case law, he was not succeeding himself in violation of Ark. Const. Amend. 29, § 2, when elected. *Chatmon v. State*, 2019 Ark. 112 (2019).

AMEND. 32. COUNTY OR CITY HOSPITALS.

§ 2. Result of election — Certification and proclamation — Tax levy.

CASE NOTES

Illegal Exaction Claim.

Circuit court properly rejected plaintiff's claim that there was an illegal exaction from public funds when the county treasurer sent the funds from the county hospital tax approved by Ark. Const. Amend. 32 to the state to be used to obtain Medicaid matching funds from the federal government before the funds were returned to the county children's hospital; the hospital directed that the money be sent to the state, and the hospital's direction of the funds was tantamount to its receiving the funds, and plaintiff cited no authority for the argument that funds from the hospital tax could not be commingled with other funds. *Blakely v. Ark.*

Children's Hosp., 2019 Ark. App. 568, 590 S.W.3d 199 (2019).

Circuit court properly rejected plaintiff's claim that there was an illegal exaction from public funds as a matter of law because the county children's hospital treated children from outside Pulaski County; the plain language of the ordinance did not restrict use of the hospital tax approved by Ark. Const. Amend. 32 to the treatment of Pulaski County residents. Also, plaintiff failed to challenge the lower court's conclusion that adequate medical care was made available to all children residing in the county. *Blakely v. Ark. Children's Hosp.*, 2019 Ark. App. 568, 590 S.W.3d 199 (2019).

**AMEND. 35. WILD LIFE — CONSERVATION — ARKANSAS
STATE GAME AND FISH COMMISSION.**

§ 1. Commission created — Members — Powers.

CASE NOTES

In General.

Circuit court properly denied the Arkansas Game and Fish Commission’s (AGFC) motion to dismiss because property owners’ claims for injunctive and declaratory relief were not barred by the doctrine of sovereign immunity; the essence of the claims was that AGFC ille-

gally blocked the owners’ access to the road that was their only access to their property and the complaint alleged that AGFC acted illegally or in an ultra vires manner. Ark. Game & Fish Comm’n v. Heslep, 2019 Ark. 226, 577 S.W.3d 1 (2019).

**§ 8. Nepotism prohibited — Powers of arrest — Funds — Use —
Purposes — Game Protection Fund — Audit of ac-
counts — Resident hunting and fishing licenses —
Powers of commission.**

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Ben Honaker, Note: We’ve Got Ourselves in a Pickle: The Supreme Court of Arkansas’s Recent Expansion of Fourth Amendment

Rights May Have Unintended Consequences, Pickle v. State, 2015 Ark. 286, 39 U. Ark. Little Rock L. Rev. 299 (2017).

AMEND. 42. STATE HIGHWAY COMMISSION.

**§ 2. Qualifications and appointment of members — Terms of
office of first commission.**

Cross References. State Highway Commission members, § 27-65-104.

**AMEND. 46. HORSE RACING AND PARI-MUTUEL WAGERING
AT HOT SPRINGS.**

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Michael Stiritz, Note: Ballot Initiatives and Direct Democracy—Amendment 100 to the Arkansas Constitution: Constitutional Is-

sues Surrounding Ballot Initiatives and Local Legislation, 43 U. Ark. Little Rock L. Rev. 87 (2021).

AMEND. 47. STATE AD VALOREM TAX PROHIBITION.**RESEARCH REFERENCES**

U. Ark. Little Rock L. Rev. Tucker M. State of Arkansas, 42 U. Ark. Little Rock
Brackins, Note: Tax Increment Financing L. Rev. 611 (2020).
—A Case for Bringing TIF Back to the

AMEND. 51. VOTER REGISTRATION.**§ 11. Cancellation of registration.**

(a) It shall be the duty of the permanent registrar to cancel the registration of voters:

(1) Who have failed to respond to address confirmation mailings described in section 10 of this amendment and have not voted or appeared to vote in an election during the period beginning on the date of the notice and ending on the day after the date of the second general election for federal office that occurs after the date of the address confirmation notice;

(2) Who have changed their residence to an address outside the county;

(3) Who have died;

(4) Who have been convicted of a felony and have not discharged their sentence or been pardoned;

(5) Who are not lawfully qualified or registered electors of this state or of the county; or

(6) Who have been adjudged mentally incompetent by a court of competent jurisdiction.

(b) It shall be the duty of the permanent registrar of each county upon the registration of a person who has been registered previously in another county or state to notify promptly the permanent registrar of such other county or state of the new registration.

(c)(1) It shall be the duty of the State Registrar of Vital Records to notify promptly the Secretary of State of the death of all residents of this state.

(2)(A) The Secretary of State shall compile a listing of the deceased residents of this state and shall promptly provide this listing to the permanent registrar of each county.

(B) The deceased voter registration shall be cancelled by the permanent registrar.

(d)(1) It shall be the duty of the circuit clerk of each county upon the conviction of any person of a felony to notify promptly the permanent registrar of the county of residence of such convicted felon.

(2)(A) It is the duty of any convicted felon who desires to register to vote to provide the county clerk with proof from the appropriate state or local agency, or office that the felon has been discharged from probation or parole, has paid all probation or parole fees, or has

satisfied all terms of imprisonment, and paid all applicable court costs, fines, or restitution.

(B) Proof that the felon has been discharged from probation or parole, paid all probation or parole fees, or satisfied all terms of imprisonment, and paid all applicable court costs, fines, or restitution shall be provided to the felon after completion of the probation, parole, or sentence by the Department of Correction, the Department of Community Correction, the appropriate probation office or the circuit clerk as applicable.

(C) The circuit clerk or any other entity responsible for collection shall provide proof to the Department of Correction, the Department of Community Correction, or the appropriate probation office that the felon has paid all applicable court costs, fines, or restitution.

(D) Upon compliance with subdivision (d)(2)(A) of this section, the felon shall be deemed eligible to vote.

(e)(1)(A) If upon inquiry an individual is found by a court to be unfit and disqualified to act as a grand or petit juror because the person is not a citizen of the United States:

- (i) The name of the individual shall be put aside and not used; and
- (ii) A notation of the dismissal of the name and reason for dismissal of the name shall be made in the jury book.

(B) The circuit clerk shall promptly notify the permanent registrar of the county of residence of an individual who is disqualified from serving as a juror under subdivision (e)(1)(A) of this section.

(C) After receiving the notice from the circuit clerk, the permanent registrar shall promptly cancel the dismissed juror's voter registration, update the voter registry, and send the dismissed juror notice under subsection (f) of this section.

(2)(A) It is the duty of any person whose registration has been cancelled under subsection (e) of this section to provide the permanent registrar with proof from the appropriate federal, state, or local agency that he or she is a citizen of the United States.

(B) Upon complying with subdivision (e)(2)(A) of this section the person shall be deemed eligible to vote and the permanent registrar shall add the citizen to the voter registry upon the citizen's application for voter registration.

(f) Within ten (10) days following the receipt or possession of information requiring any cancellation of registration, other than under section 11(a)(1) of this amendment, the permanent registrar shall cancel the registration, note the date of the cancellation, the reason for the cancellation, and the person cancelling the registration.

(g)(1) The permanent registrar shall, thirty (30) days before cancellation, notify all persons whose registration records are to be cancelled in accordance with section 11(a)(1) of this amendment. The notice may be either by publication or by first class mail. The notice by mail shall

be as follows:

“NOTICE OF IMPENDING CANCELLATION OF VOTER REGISTRATION.

According to our records you have not responded to our address confirmation notice and you have not voted in any election during the period beginning on the date of the notice and ending on the day after the date of the second general election for federal office after the date of the first notice. This may indicate that you no longer live at the residence address printed on the postcard. If your permanent residence address is still the same as the printed address on this postcard **YOU MUST CONFIRM YOUR RESIDENCE ADDRESS** in order to remain on the voter registration list. If you do not return the attached postcard within thirty (30) days after the date postmarked on this card **YOUR REGISTRATION WILL BE CANCELLED** and you will have to re-register to vote.”

(2) When, in response to the notice, a qualified voter requests the permanent registrar not to cancel the voter registration, the voter registration shall not be cancelled under section 11(a)(1) of this amendment.

(h) The permanent registrar is authorized, and may be directed by the county board of registration, to determine by mail check, house to house canvass, or any other reasonable means at any time within the whole or any part of the county whether active record registration files contain the names of any persons not qualified by law to vote. Further, upon application based upon affidavits of one (1) or more qualified voters by the prosecuting attorney for the county, the circuit judge of the county, for good cause shown, may order the permanent registrar to make sure determination or to cancel the registration of such unqualified persons. [As amended by Acts 1977, No. 744, § 1; 1983, No. 11, § 1; 1987, No. 800, § 1; 1991, No. 581, § 2; 1995, No. 947, § 7; 1995, No. 964, § 7; 2001, No. 560, § 1; 2003, No. 271, § 1; 2003, No. 375, § 1; 2003, No. 1451, § 1; 2009, No. 659, § 4; 2019, No. 290, § 1.]

Legislative Amendments. The 2019 amendment inserted (e) and redesignated the remaining subsections accordingly.

§ 13. Fail-safe voting — Verification of voter registration.

(a) If a voter presents himself or herself at a polling place on the date of an election but no record of his or her voter registration can be located by the judges of the election on the precinct voter registration list, the voter shall be permitted to vote only under the conditions set forth in § 7-5-306 or § 7-7-308.

(b)(1)(A) In order to determine that all who cast a ballot in an election, a runoff election, or a school election in this state are legally qualified to vote in that election, each voter shall verify his or her registration by:

(i) Presenting to the election official when appearing to vote in

person either early or at the polls on election day in an election, a runoff election, or a school election verification of registration in the form of a document or identification card that:

(a) Shows the name of the person to whom the document or identification card was issued;

(b) Shows a photograph of the person to whom the document or identification card was issued;

(c) Is issued by the United States, the State of Arkansas, or an accredited postsecondary educational institution in the State of Arkansas; and

(d) If displaying an expiration date, is not expired or expired no more than four (4) years before the date of the election in which the voter seeks to vote; or

(ii) Submitting with an absentee ballot in an election, a runoff election, or a school election a copy of a document or identification card that complies with the requirements of subdivision (b)(1)(A)(i) of this section.

(B) A document or identification card may be presented in a digital format on an electronic device if the document or identification card:

(1) Complies with the requirements of subdivision (b)(1)(A) of this section; and

(2) The digital format has been approved or issued by the United States, the State of Arkansas, or an accredited postsecondary educational institution in the State of Arkansas.

(C) Documents and identification cards that comply with the requirements of subdivision (b)(1)(A) of this section include without limitation:

(i) A driver's license;

(ii) A photo identification card;

(iii) A concealed handgun carry license;

(iv) A United States passport;

(v) An employee badge or identification document issued by an accredited postsecondary educational institution in the State of Arkansas;

(vi) A United States military identification document;

(vii) A public assistance identification card if the card shows a photograph of the person to whom the document or identification card was issued; and

(viii) A voter verification card under Arkansas Code § 7-5-324.

(2)(A) Except as provided in subdivision (b)(2)(B) of this section, if a voter is unable to verify his or her registration when voting in person by presenting a document or identification card that complies with subdivision (b)(1)(A)(i) of this section, the election official shall:

(i) Indicate on the precinct voter registration list that the voter did

not present a required document or identification card; and

(ii) Permit the voter to cast a provisional ballot and inform the voter of the requirements under subdivision (b)(4) of this section.

(B)(i) A person who is a resident of a long-term care or residential care facility licensed by the state of Arkansas is not required to verify his or her registration by presenting a document or identification card that complies with subdivision (b)(1)(A)(i) of this section when voting in person.

(ii) A person not required to present a document or identification card under subdivision (b)(2)(B)(i) of this section shall provide documentation from the administrator of the facility attesting that the person is a resident of the facility.

(3)(A) Except as provided in subdivision (b)(3)(B) of this section, if a voter voting by absentee ballot fails to submit with the ballot documentation that complies with subdivision (b)(1)(A)(ii) of this section, the absentee ballot shall be considered a provisional ballot.

(B) The following persons shall not be required to submit with his or her absentee ballot documentation that complies with subdivision (b)(1)(A)(ii) of this section:

(i) An active duty member of the uniformed services of the United States or United States Merchant Marine who is absent from the country on election day because of his or her service;

(ii) The spouse or dependant of an active duty member of the uniformed services of the United States or United States Merchant Marine under subdivision (b)(3)(B)(i) of this section who is absent from the country on election day because of the service of the member; or

(iii)(a) A resident of a long-term care or residential care facility licensed by the state of Arkansas.

(b) A person not required to submit a document or identification card under subdivision (b)(3)(B)(iii)(a) of this section shall provide documentation from the administrator of the facility attesting that the person is a resident of the facility.

(4) A provisional ballot cast by a voter who did not present a required document or identification card shall be counted if:

(A) The voter returns to the county board of election commissioners or the county clerk by 12:00 noon on the Monday following the election and presents a document or identification card that complies with the requirements of subdivision (b)(1)(A)(i) of this section; and

(B) The county board of election commissioners does not determine that the provisional ballot is invalid and should not be counted based on other grounds.

(5) A provisional ballot cast by an absentee voter who failed to submit with an absentee ballot documentation that complies with

subdivision (b)(1)(A)(ii) of this section shall be counted if:

(A) The voter returns to the county board of election commissioners or the county clerk by 12:00 noon on the Monday following the election and presents a copy of a document or identification card that complies with the requirements of subdivision (b)(1)(A)(i) of this section; and

(B) The county board of election commissioners does not determine that the provisional ballot is invalid and should not be counted based on other grounds.

(6) A person registering to vote by mail and who has not previously voted in a federal election in this state shall only be required to comply with § 7-5-201(e).

(7) The State Board of Election Commissioners shall promulgate rules necessary to implement subsection (b) of this section.

(8)(A) Following each election, the county board of election commissioners may review the precinct voter registration lists and may provide the information of each voter not presenting a document or identification card necessary to verify his or her voter registration when voting in person or by absentee ballot to the prosecuting attorney.

(B) The county board of election commissioners shall refer suspected instances of voter fraud to the prosecuting attorney.

(C) The prosecuting attorney may investigate possible voter fraud.

(D) Upon application based upon affidavits of one (1) or more qualified voters by the appropriate prosecuting attorney alleging possible voter fraud, the appropriate circuit judge, for good cause shown, may order the permanent registrar to cancel the registration of the voter failing to verify his or her registration as provided by this subsection. [As amended by Acts 1973, No. 149, §§ 5, 6; 1995, No. 947, § 10; 1995, No. 964, § 10; 2017, No. 633, § 2; 2019, No. 684, § 1; 2021, No. 249, §§ 1, 2.]

Legislative Amendments. The 2019 amendment inserted (b)(1)(B) and redesignated former (b)(1)(B) as (b)(1)(C); and inserted "Arkansas Code" in (b)(1)(C)(viii).

The 2021 amendment deleted former (b)(4)(A); redesignated former (b)(4)(B)(i) and (ii) as (b)(4)(A) and (B); deleted former

(b)(5)(A); redesignated former (b)(5)(B)(i) and (ii) as (b)(5)(A) and (B); and deleted "including without limitation the preparation of a sworn statement to be used by voters who cast a provisional ballot under subsection (b) of this section" in (b)(7) at the end.

AMEND. 55. REVISION OF COUNTY GOVERNMENT.**§ 3. Power of county judge.****CASE NOTES****Township Lines.**

Authority to abolish or alter township lines is statutorily vested in the county court; Ark. Const. Amend. 55 did not transfer that power to the county judge as

an executive function, thus it remains within the county court, over which the county judge presides. *Clowers v. Edwards*, 2020 Ark. 367 (2020).

**AMEND. 62. LOCAL CAPITAL IMPROVEMENT BONDS
(CONST. AMENDS. 13, 17, 25 AND 49, REPEALED; AND SECTIONS ADDED).****§ 2. Issuance of bonds to secure and develop industry — Levy of tax — Suspension of collection — Limit on tax levy.**

(a) In addition to the authority for bonded indebtedness set forth in Section 1, any municipality or county may, with the consent of the majority of the voters voting on the question at an election held for that purpose, issue bonds in sums approved by such majority at that election for the purpose of financing economic development projects within or near the county or municipality holding the election.

(b) To provide for payment of principal and interest of the bonds issued pursuant to the section, as they mature, the municipality or county may levy a special tax, not to exceed five (5) mills on the dollar of the taxable real and personal property therein. However, the municipality or county may, from time to time, suspend the collection of such annual levy when not required for the payment of its bonds. In no event shall any parcel of real and personal taxable property be subject to a special tax levied under the authority of this Section in excess of five (5) mills for bonds issued under this Section.

(c) Other taxes may be authorized by the General Assembly or the legislative body to retire the bonds.

(d) As used in this section:

(1) "Economic development projects" means the land, buildings, furnishings, equipment, facilities, infrastructure, and improvements that are required or suitable for the development, retention, or expansion of:

- (A) Manufacturing, production, and industrial facilities;
- (B) Research, technology, and development facilities;
- (C) Recycling facilities;
- (D) Distribution centers;
- (E) Call centers;
- (F) Warehouse facilities;
- (G) Job training facilities;
- (H) Regional or national corporate headquarters facilities; and

(I) Sports complexes designed to host local, state, regional, and national competitions, including without limitation baseball, softball, and other sports tournaments; and

(2) "Infrastructure" means:

(A) Land acquisition;

(B) Site preparation;

(C) Road and highway improvements;

(D) Rail spur, railroad, and railport construction;

(E) Water service;

(F) Wastewater treatment;

(G) Employee training which may include equipment for such purpose; and

(H) Environmental mitigation or reclamation.

(e) The General Assembly, by a three-fourths vote of each house, may amend the provisions of subsection (d) of this section so long as the amendments are germane to this section and consistent with its policy and purposes. [As amended by Const. Amend. 97; Acts 2019, No. 1072, § 2.]

Legislative Amendments. The 2019 amendment added (d)(1)(I).

AMEND. 73. ARKANSAS TERM LIMITATION AMENDMENT.

Publisher's Notes. Section 2 of this Amendment has been amended by Ark. Const. Amend. 102.

§ 2. Legislative Branch.

(a) The Arkansas House of Representatives shall consist of members to be chosen every second year by the qualified electors of the several counties.

(b) The Arkansas Senate shall consist of members to be chosen every four (4) years by the qualified electors of the several districts.

(c)(1)(A) Except as provided in subdivision (c)(1)(E) of this section, a person first elected as a member of the General Assembly before January 1, 2021, shall serve no more than sixteen (16) years, whether consecutive or nonconsecutive.

(B) A member first elected as a member of the General Assembly before January 1, 2021, who completes his or her sixteenth year of service during a term of office for which he or she has been elected may serve until the completion of that term of office.

(C) The years of service in both the Senate and the House of Representatives shall be added together and included to determine the total number of years in office of a member of the General Assembly first elected as a member of the General Assembly before January 1, 2021.

(D) A partial legislative term served as a result of a special election under Article 5, § 6, or a two-year term served as a result of apportionment of the Senate shall not be included in calculating the total number of years served by a member of the General Assembly first elected as a member of the General Assembly before January 1, 2021.

(E)(i) A person who has served sixteen (16) or more years in the General Assembly under subdivision (c)(1) of this section shall not be eligible for subsequent service in the General Assembly until four (4) years after the expiration of the last term of office in the General Assembly for which he or she was elected.

(ii) Subsequent service in the General Assembly under subdivision (c)(1)(E)(i) of this section shall be as provided under subdivision (c)(2) of this section.

(2)(A)(i) A person first elected as a member of the General Assembly on or after January 1, 2021, shall serve no more than twelve (12) consecutive years.

(ii) A member of the General Assembly first elected to the General Assembly on or after January 1, 2021, who serves twelve (12) or more consecutive years shall not be eligible for subsequent service in the General Assembly until four (4) years after the expiration of the last term of office in the General Assembly for which he or she was elected.

(B) A member first elected to the General Assembly on or after January 1, 2021, who completes his or her twelfth consecutive year of service during a term of office for which he or she has been elected may serve until the completion of that term of office.

(C) Consecutive years of service in both the Senate and the House of Representatives shall be added together and included to determine the total number of consecutive years in office of a member first elected to the General Assembly on or after January 1, 2021.

(D)(i) A two-year term served as a result of apportionment of the Senate shall be included in calculating the total number of consecutive years served by a member of the General Assembly first elected to the General Assembly on or after January 1, 2021.

(ii) A partial legislative term served as a result of a special election under Article 5, § 6, shall not be included in calculating the total number of consecutive years served by a member of the General Assembly first elected to the General Assembly on or after January 1, 2021. [As amended by Const. Amend. 94; Const. Amend. 102.]

Publisher's Notes. Ark. Const. Amend. 102, which amended this section effective January 1, 2021, was proposed by S.J.R. 15 during the 2019 Regular Session and adopted at the 2020 general

election by a vote of 647,861 for and 521,979 against.

Before amendment by Amend. 102, this section read:

“§ 2. Legislative Branch.

“(a) The Arkansas House of Representatives shall consist of members to be chosen every second year by the qualified electors of the several counties.

“(b) The Arkansas Senate shall consist of members to be chosen every four years by the qualified electors of the several districts.

“(c)(1) A member of the General Assembly shall serve no more than sixteen (16) years, whether consecutive or nonconsecutive.

“(2) A member who completes his or her sixteenth year of service during a term of office for which he or she has been elected

may serve until the completion of that term of office.

“(3) The years of service in both the Senate and the House of Representatives shall be added together and included to determine the total number of years in office.

“(4) A partial legislative term served as a result of a special election under Article 5, § 6, or a two-year term served as a result of apportionment of the Senate shall not be included in calculating the total number of years served by a member of the General Assembly. [As amended by Const. Amend. 94.]”

AMEND. 78. [CITY AND COUNTY GOVERNMENT REDEVELOPMENT].

§ 1. Redevelopment Projects.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Tucker M. Brackins, Note: Tax Increment Financing—A Case for Bringing TIF Back to the State of Arkansas, 42 U. Ark. Little Rock L. Rev. 611 (2020).

AMEND. 80. [REVISION OF THE JUDICIAL ARTICLE] (MULTIPLE PROVISIONS OF CONST., ART. 7 REPEALED; CONST. AMENDS. 58, 64, AND 77, § 1, REPEALED; AND SECTIONS ADDED).

§ 1. Judicial power.

CASE NOTES

Cited: Evans v. City of Helena-West Helena, 912 F.3d 1145 (8th Cir. 2019); City of Little Rock v. Nelson, 2020 Ark. 34, 592 S.W.3d 633 (2020).

§ 3. Rules of pleading, practice, and procedure.

RESEARCH REFERENCES

Ark. L. Rev. Margaret E. Rushing, Comment: Deceptively Simple: The Arkansas Deceptive Trade Practices Act, 71 Ark. L. Rev. 1033 (2019).

§ 4. Superintending control.

CASE NOTES

Cited: City of Little Rock v. Nelson, 2020 Ark. 34, 592 S.W.3d 633 (2020).

§ 6. Circuit courts.

CASE NOTES

Jurisdiction.

In creditor's action to set aside an alleged fraudulent conveyance arising from a transfer-on-death (TOD) beneficiary designation, the circuit court erroneously ruled that the probate court had exclusive jurisdiction and that the circuit court lacked jurisdiction; the circuit court clearly had jurisdiction under Ark. Const.

Amend. 80, § 6, and because, under the Uniform Transfer on Death Security Registration Act, § 28-14-101 et seq., the money transferred from the TOD account did not become part of the estate. *Heritage Props. Ltd. P'ship v. Walt & Lee Keenihan Found., Inc.*, 2019 Ark. 371, 584 S.W.3d 685 (2019).

§ 7. District courts.

CASE NOTES

District Court Judge.

Due process violation arising from a district court judge's installment fee policy could be imputed to the city because the judge was an employee of the city since the Little Rock District Court had not yet been reorganized as a state district

court at the times relevant to the case; the Little Rock District Court was not part of the state district court program at the time of the events alleged in the complaint. *City of Little Rock v. Nelson*, 2020 Ark. 34, 592 S.W.3d 633 (2020).

§ 10. Jurisdiction, venue, circuits, districts and number of judges.

CASE NOTES

ANALYSIS

District Court Clerk.

District Court Judge.

District Court Clerk.

Federal district court erred in dismissing plaintiff's § 1983 action alleging that defendant city violated her constitutional rights by failing to document that she paid certain fines and requesting issuance of a warrant for her arrest, as the complaint stated at least a plausible claim that the Phillips County district court clerk was a city official at the time of the alleged wrongdoing, rather than a state official, in which case the city could be accountable for actions of the clerk that established or carried out an unconstitutional policy or custom of the municipality. *Evans v. City of Helena-West Helena*, 912 F.3d 1145 (8th Cir. 2019).

one of several counties that were reorganized as state district courts and served by a state district court judge. Before that time, state law gave cities and counties authority to set salaries for the district court clerk, and the complaint alleged that employees of the district court were hired by the city and paid by the city. *Evans v. City of Helena-West Helena*, 912 F.3d 1145 (8th Cir. 2019).

District Court Judge.

Due process violation arising from a district court judge's installment fee policy could be imputed to the city because the judge was an employee of the city since the Little Rock District Court had not yet been reorganized as a state district court at the times relevant to the case; the Little Rock District Court was not part of the state district court program at the time of the events alleged in the complaint. *City of Little Rock v. Nelson*, 2020 Ark. 34, 592 S.W.3d 633 (2020).

It was not until after the events alleged in the complaint that Phillips County was

§ 12. Temporary disqualification of justices or judges.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Elizabeth James, Note: Confusion, Clarification and Continued Considerations: A Closer Look at Arkansas's Judicial Disqualification Rules in Light of *Ferguson v. State*, 40 U. Ark. Little Rock L. Rev. 283 (2017).

§ 13. Assignment of special and retired judges.

CASE NOTES

Jurisdiction.

In litigation involving the administration of several family trusts, the chief justice did not lack jurisdiction to appoint a special judge under the circumstances presented, even though all the judges in the judicial circuit had not recused. Plaintiff's focus on Admin. Order No. 16, § III,

ignored the broad language of Ark. Const. Amend. 80, § 13, and Admin. Order No. 16, § II, which provide the chief justice with the authority to assign a special judge if the chief justice determines there is "other need" for a special judge. *Dawson v. Stoner-Sellers*, 2019 Ark. 410, 591 S.W.3d 299 (2019).

§ 16. Qualifications and terms of justices and judges.

CASE NOTES

Judicial Qualifications.

Distinction between "residence" and "domicile" is not contemplated by Ark. Const. Amend. 80; it simply requires that justices and judges be qualified electors within the geographical area from which they are chosen. *Barrett v. Thurston*, 2020 Ark. 36, 593 S.W.3d 1 (2020).

Circuit court did not clearly err in determining that an appointed district court judge was a qualified elector of a specific district, thereby qualifying her as a can-

didate for a position on the Court of Appeals; Ark. Const. Amend. 80, § 16(D) simply requires that justices and judges be qualified electors within the geographical area from which they are chosen, and the appointed judge had established her physical presence in the district by purchasing a home, registering to vote, and assessing personal property there (even though she still owned another home outside the district). *Barrett v. Thurston*, 2020 Ark. 36, 593 S.W.3d 1 (2020).

AMEND. 89. [GOVERNMENTAL BONDS AND LOANS — INTEREST RATES — ENERGY EFFICIENCY PROJECTS] (CONST., ART. 19, § 13 REPEALED, CONST. AMEND. 30, § 5, AMEND. 38, § 5, AMEND. 62, § 1, AMEND. 65, § 4, AND AMEND. 78, § 2, AMENDED, AND SECTIONS ADDED).

Effective Dates. Acts 2019, No. 694, § 8: Apr. 4, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that under current law the Arkansas Code Revision Commission does not have the authority to correct conflicts occurring when multiple acts amend the same provision of the Arkansas Constitution as expressly permitted by the Arkansas Con-

stitution; that this inability to resolve conflicts makes the law unclear and impossible to publish for review and study by the citizens of the state; and that this act should become effective at the earliest opportunity so that it may be applied to acts enacted by the Ninety-Second General Assembly. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of

the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time

during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

§ 11. [Three-fourths vote].

(a) The General Assembly may by a three-fourths vote of each house of the General Assembly amend the provisions of this amendment so long as the amendments are germane to this amendment and consistent with its policy and purposes.

(b)(1) If an act of the General Assembly amends one (1) or more provisions of this amendment, the Arkansas Code Revision Commission may, by a majority vote of the commission, make the following revisions to the act so long as the revisions do not change the substance or meaning of the act:

- (A) Correct the spelling of words;
- (B) Change capitalization for the purpose of uniformity;
- (C) Correct manifest typographical and grammatical errors;
- (D) Correct manifest errors in references to laws and other documents;
- (E) Correct manifest errors in internal reference numbers;
- (F) Number, renumber, redesignate, and rearrange the provisions of this amendment at issue;
- (G) Change internal reference numbers to agree with renumbered sections, subsections, subdivisions, or other provisions of law;
- (H) Insert or delete hyphens in words to follow correct grammatical usage;
- (I) Change numerals or symbols to words or vice versa and add figures or words if they are merely repetitions of written words or vice versa for purposes of uniformity and style;
- (J) Change the form of nouns, pronouns, and verbs for purposes of style and grammar;
- (K) Correct punctuation; and
- (L) Change gender-specific language to gender-neutral language.

(2)(A) If more than one (1) act amending a provision of this amendment is enacted by the General Assembly during the same session, the commission may, by a majority vote of the commission, revise this amendment as necessary so that all of the enactments shall be given effect, including without limitation renumbering, redesignating, and rearranging sections, subsections, and subdivisions of this amendment.

(B) In the event that one (1) or more acts amending a provision of this amendment result in an irreconcilable conflict with one (1) or more acts amending a provision of this amendment enacted during the same session, the commission may, by a majority vote of the

commission, revise this amendment so that the conflicting provision of the last enactment prevails.

(c) If the commission makes revisions under subsection (b) of this section, the commission shall file a report with the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Governor that:

(1) Explains the revisions made under subsection (b) of this section; and

(2) Includes the text of this amendment as amended by the revisions made under subsection (b) of this section. [As amended by Acts 2019, No. 694, § 5.]

Legislative Amendments. The 2019 amendment added the (a) designation, and added (b) and (c).

AMEND. 91. [GENERAL OBLIGATION FOUR-LANE HIGHWAY CONSTRUCTION AND IMPROVEMENT BONDS].

§ 2. Definitions.

CASE NOTES

Illegal Exaction Suit.

Circuit court erred in dismissing an illegal exaction suit filed by citizens and taxpayers that sought to enjoin the expenditure of highway funds for two projects to improve six-lane portions of interstate highways; while the circuit court found that the intent of the constitutional provi-

sion at issue was to provide for funding for state highways, the repeated reference to “four-lane highways” and the lack of a specific reference to six-lane interstate highways meant the funds could not be used for the latter. *Buonaiuto v. Gibson*, 2020 Ark. 352, 609 S.W.3d 381 (2020).

AMEND. 98. ARKANSAS MEDICAL MARIJUANA AMENDMENT OF 2016.

Effective Dates. Acts 2019, No. 694, § 8: Apr. 4, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that under current law the Arkansas Code Revision Commission does not have the authority to correct conflicts occurring when multiple acts amend the same provision of the Arkansas Constitution as expressly permitted by the Arkansas Constitution; that this inability to resolve conflicts makes the law unclear and impossible to publish for review and study by the citizens of the state; and that this act should become effective at the earliest opportunity so that it may be applied to acts enacted by the Ninety-Second General Assembly. Therefore, an emergency is

declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2019, No. 1004, § 2: Apr. 15, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that it is necessary to protect the individuals with developmental disabilities; that the current restriction on the location of a medical

marijuana dispensary is in place for schools, churches, and daycare centers; and that this act is immediately necessary because the State of Arkansas needs to ensure the protection of the vulnerable citizens of the State of Arkansas. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

§ 1. Short title.

RESEARCH REFERENCES

Ark. L. Rev. Carol Goforth & Robyn Goforth, Medical Marijuana in Arkansas: The Risks of Rushed Drafting, 71 Ark. L. Rev. 647 (2019).	Andrew Dixon , Comment: Marijuana Business Attorneys and the Professional Deference Standard, 71 Ark. L. Rev. 789 (2019).
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§ 2. Definitions.

RESEARCH REFERENCES

Ark. L. Rev. Carol Goforth & Robyn Goforth, Medical Marijuana in Arkansas:	The Risks of Rushed Drafting, 71 Ark. L. Rev. 647 (2019).
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§ 4. Qualifying patient — Administration and enforcement — Rules.

(a)(1) The Department of Health shall administer and enforce the provisions of this amendment concerning qualifying patients, qualifying medical conditions, and designated caregivers, including without limitation the issuance of a registry identification card to a qualifying patient and designated caregiver.

- (2) The department shall adopt rules necessary to:
 - (A) Carry out the purposes of this amendment; and
 - (B) Perform its duties under this amendment.
- (3) Rules adopted under this section are rules as defined in the Arkansas Administrative Procedure Act, § 25-15-201 et seq.
- (4)(A) The Department of Health shall require each applicant for a designated caregiver registry identification card to apply for or authorize the Department of Health to obtain state and national criminal background checks to be conducted by the Identification Bureau of the Department of Arkansas State Police and the Federal Bureau of Investigation.
 - (B) The criminal background checks shall conform to the applicable federal standards and shall include the taking of fingerprints.
 - (C) The applicant shall authorize the release of the criminal background checks to the Department of Health and shall be responsible for the payment of any fee associated with the criminal

background checks.

(D) Upon completion of the criminal background checks, the Identification Bureau of the Department of Arkansas State Police shall forward to the Department of Health all information obtained concerning the applicant.

(b) Not later than one hundred eighty (180) days after the effective date of this amendment, the department shall adopt rules governing:

(1) The manner in which the department considers applications for and renewals of registry identification cards;

(2) Labeling and testing standards for marijuana distributed to qualifying patients, including a warning label on all marijuana for medical use that is processed or sold for smoking that communicates the health and safety risks associated with smoking and a list of places and conditions in which smoking marijuana for medical use is illegal in the State of Arkansas; and

(3) Any other matters necessary for the department's fair, impartial, stringent, and comprehensive administration of this amendment.

(c)(1) Not later than one hundred eighty (180) days after the effective date of this amendment, the department shall adopt rules that govern the manner in which the department considers petitions from the public to add medical conditions or treatments to the list of qualifying medical conditions set forth in § 2 of this amendment.

(2) In considering a petition, the department shall add medical conditions or treatments to the list of qualifying medical conditions set forth in § 2 of this amendment if patients suffering from the medical conditions or undergoing the treatments in question would derive therapeutic benefit from the use of marijuana, taking into account the positive and negative health effects of such use.

(3)(A) The department shall, after hearing, approve or deny a petition within one hundred twenty (120) days of submission of the petition.

(B) The approval or denial of a petition constitutes final agency action, subject to judicial review, and jurisdiction for judicial review is vested in the Pulaski County Circuit Court.

(d) The department shall adopt rules within one hundred eighty (180) days of the effective date of this amendment that govern the manner in which a designated caregiver assists a physically disabled qualifying patient or a qualifying patient under the age of eighteen (18) with the medical use of marijuana.

(e) The department may collect fines or fees for any violation of a rule adopted under this section.

(f) When a patient receives a written certification from a physician, the physician may require the patient to consult with a pharmacist consultant of a dispensary. [As amended by Acts 2017, No. 4, §§ 2, 3; 2017, No. 545, § 1; 2017, No. 639, § 1; 2017, No. 740, § 2; 2017, No. 1023, § 2; 2017 (1st Ex. Sess.), No. 1, §§ 3, 4; 2017 (1st Ex. Sess.), No. 8, §§ 3, 4; 2021, No. 666, § 1.]

Legislative Amendments: The 2021 amendment added (f).

RESEARCH REFERENCES

Ark. L. Rev. Carol Goforth & Robyn The Risks of Rushed Drafting, 71 Ark. L. Goforth, Medical Marijuana in Arkansas: Rev. 647 (2019).

§ 8. Licensing of dispensaries and cultivation facilities.

(a)(1) Dispensaries and cultivation facilities shall be licensed by the Medical Marijuana Commission.

(2) The commission shall administer and regulate the licensing of dispensaries and cultivation facilities, including the issuance of a:

- (i) License to operate a dispensary; and
- (ii) License to operate a cultivation facility.

(3) The Alcoholic Beverage Control Division shall administer and enforce the provisions of this amendment concerning dispensaries and cultivation facilities.

(b)(1) The commission and division shall each adopt rules necessary to:

- (A) Carry out the purposes of this amendment; and
- (B) Perform its duties under this amendment.

(2) Rules adopted under this section are rules as defined in the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(c) The following individuals associated with a dispensary or cultivation facility shall be current residents of Arkansas who have resided in the state for the previous seven (7) consecutive years:

- (1) The individual(s) submitting an application to license a dispensary or cultivation facility; and,
- (2) Sixty percent (60%) of the individuals owning an interest in a dispensary or cultivation facility.

(d) Not later than one hundred eighty (180) days after the effective date of this amendment, the commission shall adopt rules governing:

- (1) The manner in which the commission considers applications for and renewals of licenses for dispensaries and cultivation facilities;
- (2) The form and content of registration and renewal applications for dispensaries and cultivation facilities; and
- (3) Any other matters necessary for the commission's fair, impartial, stringent, and comprehensive administration of this amendment.

(e) Not later than one hundred eighty (180) days after the effective date of this amendment, the division shall adopt rules governing:

- (1) Oversight requirements for dispensaries and cultivation facilities;
- (2) Recordkeeping requirements for dispensaries and cultivation facilities;
- (3) Security requirements for dispensaries and cultivation facilities;
- (4) Personnel requirements for dispensaries and cultivation facilities;

(5) The manufacture, processing, packaging, labeling, and dispensing of usable marijuana to qualifying patients and designated caregivers, including without limitation:

(A) Before sale, food or drink that has been combined with usable marijuana shall not exceed ten milligrams (10 mg) of active tetrahydrocannabinol per portion and shall be physically demarked; and

(B) If portions cannot be physically determined, the entirety of the food or drink that has been combined with usable marijuana shall not contain more than ten milligrams (10 mg) of active tetrahydrocannabinol;

(6) Procedures for suspending or terminating the licenses of dispensaries and cultivation facilities that violate the provisions of this amendment or the rules adopted under this amendment, procedures for appealing penalties, and a schedule of penalties;

(7) Procedures for inspections and investigations of dispensaries and cultivation facilities;

(8) Advertising restrictions for dispensaries and cultivation facilities, including without limitation the advertising, marketing, packaging, and promotion of dispensaries and cultivation facilities with the purpose to avoid making the product of a dispensary or a cultivation facility appealing to children, including without limitation:

(A) Artwork;

(B) Building signage;

(C) Product design, including without limitation shapes and flavors;

(D) Child-proof packaging that cannot be opened by a child or that prevents ready access to toxic or harmful amount of the product, and that meets the testing requirements in accordance with the method described in 16 C.F.R. § 1700.20, as existing on January 1, 2017;

(E) Indoor displays that can be seen from outside the dispensary or cultivation facility; and

(F) Other forms of marketing related to medical marijuana;

(9) Procedures for the disposal or other use of marijuana not dispensed to a qualifying patient; and

(10) Any other matters necessary to the division's fair, impartial, stringent, and comprehensive administration of its duties under this amendment.

(f)(1) Not later than one hundred eighty (180) days after the effective date of this amendment, the commission shall adopt rules establishing license application and license renewal fees for dispensary and cultivation facility licenses.

(2)(A) The initial dispensary application fee shall be a maximum of seven thousand five hundred dollars (\$7,500).

(B) The initial cultivation facility application fee shall be a maximum of fifteen thousand dollars (\$15,000).

(C) A license that is initially issued between January 1 and July 1 may have the licensing fees up to fifty percent (50%) prorated and refunded as determined by the commission.

(g)(1) Not later than July 1, 2017, the commission shall begin accepting applications for licenses to operate a dispensary and cultivation facility.

(2) The application shall include without limitation the following:

(A) The application fee;

(B) The legal name of the dispensary or cultivation facility;

(C) The physical address of the:

(i)(a) Dispensary, the location of which may not be within one thousand five hundred feet (1,500') of a public or private school, church, daycare center, or facility for individuals with developmental disabilities, existing before the date of the dispensary application, which shall be calculated from the primary entrance of the dispensary to the nearest property boundary of a public or private school, church, daycare center, or facility for individuals with developmental disabilities.

(b) Subdivision (g)(2)(C)(i)(a) of this section does not apply to or impact existing locations of dispensaries issued a license before the effective date of this subdivision (g)(2)(C)(i)(b) that may be located within one thousand five hundred feet (1,500') of a facility for individuals with developmental disabilities; or

(ii) Cultivation facility, the location of which may not be within three thousand feet (3,000') of a public or private school, church, or daycare center existing before the date of the cultivation facility application, which shall be calculated from the primary entrance of the cultivation facility to the nearest property boundary of a public or private school, church, or daycare center;

(D) The name, address, and date of birth of each dispensary agent or cultivation facility agent; and

(E) If the city, town, or county in which the dispensary or cultivation facility would be located has enacted zoning restrictions, a sworn statement certifying that the dispensary or cultivation facility will operate in compliance with the restrictions.

(2) None of the owners, board members, or officers of the dispensary or cultivation facility:

(A) Shall have been convicted of an excluded felony offense;

(B) Shall have previously been an owner of a dispensary or cultivation facility that has had its license revoked; and

(C) Shall be under twenty-one (21) years of age.

(4)(A) The commission may issue a temporary license to another natural person in conjunction with a dispensary or a cultivation facility when the natural person whose name is on the license for the dispensary or cultivation facility ceases to be in actual control of the

dispensary or cultivation facility.

(B) The commission shall adopt rules as necessary to provide temporary licenses.

(h) The commission shall issue at least twenty (20) but no more than forty (40) dispensary licenses.

(i) There shall be no more than four (4) dispensaries in any one (1) county.

(j) The commission shall issue at least four (4) but no more than eight (8) cultivation facility licenses.

(k)(1) The commission shall conduct a criminal background check in order to carry out this section.

(2) The commission shall require each applicant for a dispensary license or cultivation facility license to apply for or authorize the commission to obtain state and national criminal background checks to be conducted by the Identification Bureau of the Department of Arkansas State Police and the Federal Bureau of Investigation.

(3) The criminal background checks shall conform to the applicable federal standards and shall include the taking of fingerprints.

(4) The applicant shall authorize the release of the criminal background checks to the commission and shall be responsible for the payment of any fee associated with the criminal background checks.

(5) Upon completion of the criminal background checks, the Identification Bureau of the Department of Arkansas State Police shall forward to the commission all information obtained concerning the applicant.

(l)(1) No individual shall own an interest in more than:

(1) One (1) cultivation facility; and,

(2) One (1) dispensary.

(m)(1)(A) A dispensary licensed under this section may acquire, possess, manufacture, process, prepare, deliver, transfer, transport, supply, and dispense marijuana, marijuana paraphernalia, and related supplies and educational materials to a qualifying patient or designated caregiver, but shall not supply, possess, manufacture, deliver, transfer, or sell marijuana paraphernalia that requires the combustion of marijuana to be properly utilized, including pipes, water pipes, bongs, chillums, rolling papers, and roach clips.

(B) A dispensary licensed under this section shall:

(i) Make marijuana vaporizers available for sale to qualifying patients; and

(ii) Provide educational materials about medical marijuana methods of ingestion to qualifying patients and designated caregivers, including without limitation:

(a) Warnings on the potential health risks of smoking or combusting marijuana; and

(b) Information on potential health benefits of vaporizing marijuana compared to smoking or combusting.

(2)(A) A dispensary may receive compensation for providing the goods and services allowed by this section.

(B) A dispensary may contract with a transporter, distributor, or processor to extent of the license of the transporter, distributor, or processor.

(3)(A) A dispensary may grow or possess:

(i) Fifty (50) mature marijuana plants at any one (1) time plus seedlings; and

(ii) All usable marijuana derived from the plants under subdivision (m)(3)(A)(i) of this section or predecessor plants.

(B) A dispensary may contract with a cultivation facility to cultivate one (1) or more mature marijuana plants the dispensary is permitted to grow.

(4)(A)(i) A cultivation facility may cultivate and possess usable marijuana in an amount reasonably necessary to meet the demand for the needs of qualifying patients as determined by the commission with the assistance of the Department of Health.

(ii) However, a cultivation facility shall not sell marijuana in any form except to a dispensary or other cultivation facility.

(B) A cultivation facility may also possess marijuana seeds.

(C) The commission with the assistance of the Department of Health shall promulgate rules determining the amount of marijuana reasonably necessary under subdivision (m)(4)(A) of this section.

(5)(A) A cultivation facility may receive compensation for providing goods and services allowed by this section.

(B) A cultivation facility may contract with a transporter, distributor, or processor to extent of the license of the transporter, distributor, or processor.

(n)(1) A dispensary license and cultivation facility license shall expire on June 30 of each calendar year and are renewable on or before June 30 of each calendar year for the fiscal year beginning July 1.

(2) The commission shall issue a renewal dispensary license or a renewal cultivation facility license within ten (10) days to any entity who complies with the requirements contained in this amendment, including without limitation the payment of a renewal fee.

(o) The commission may charge a reasonable fee as established by rule for the issuance of a renewal license.

(p) The commission and the division may collect fines or fees for any violation of a rule adopted under this section.

(q)(1) A license for a dispensary or cultivation facility shall only be issued to a natural person.

(2) A license issued for a dispensary or cultivation facility shall be transferable only to a natural person upon approval of the commission.

(r) Data or records submitted to the division or commission under rules adopted under this amendment may be shared with the Department of Health and the State Insurance Department for purposes of the

Arkansas all-payer claims database established under the Arkansas Healthcare Transparency Initiative Act of 2015, § 23-61-901 et seq.

(s)(1) A dispensary shall appoint a pharmacist consultant who is a pharmacist licensed with the Arkansas State Board of Pharmacy.

(2) A pharmacist consultant shall:

(A) Register as a dispensary agent under this amendment and follow all procedures;

(B) Develop and provide training to other dispensary agents at least one (1) time every twelve (12) months from the initial date of the opening of the dispensary on the following subjects:

(i) Guidelines for providing information to qualifying patients related to risks, benefits, and side effects associated with medical marijuana;

(ii) Recognizing the signs and symptoms of substance abuse; and

(iii) Guidelines for refusing to provide medical marijuana to an individual who appears to be impaired or abusing medical marijuana;

(C) Assist in the development and implementation of review and improvement processes for patient education and support provided by the dispensary;

(D) Provide oversight for the development and dissemination of:

(i) Education materials for qualifying patients and designated caregivers that include:

(a) Information about possible side effects and contraindications of medical marijuana;

(b) Guidelines for notifying the physician who provided the written certification for medical marijuana if side effects or contraindications occur;

(c) A description of the potential effects of differing strengths of medical marijuana strains and products;

(d) Information about potential drug-to-drug interactions, including interactions with alcohol, prescription drugs, nonprescription drugs, and supplements;

(e) Techniques for the use of medical marijuana and marijuana paraphernalia; and

(f) Information about different methods, forms, and routes of medical marijuana administration;

(ii) Systems for documentation by a qualifying patient or designated caregiver of the symptoms of a qualifying patient that includes a logbook, rating scale for pain and symptoms, and guidelines for a patient's self-assessment; and

(iii) Policies and procedures for refusing to provide medical marijuana to an individual who appears to be impaired or abusing medical marijuana; and

(E) Be accessible to the dispensary or dispensary agent through:

(i) Telephonic means at all times during operating hours; and

(ii) Telephone or video conference for a patient consultation during operating hours.

(3) A dispensary shall:

(A) Post signage at the check-in station of the dispensary notifying the qualifying patient of the availability of a pharmacist consultant;

(B) Provide to the new qualifying patient of the dispensary a card containing language about a consultation with a pharmacist consultant and the contact information of the pharmacist consultant; and

(C) Post information on the website of the dispensary regarding a consultation with a pharmacist consultant, the availability of the pharmacist consultant, and the contact information of the pharmacist consultant.

(t)(1) A cultivation facility shall meet the following security requirements:

(A)(i) The physical security controls set forth in 21 C.F.R. § 1301.72 — 1301.74, as existing on January 1, 2017.

(ii) The division shall adopt rules to implement subdivision (t)(1)(A)(i) of this section;

(B) All cultivation of marijuana occurs within a building, greenhouse, or other structure that:

(i) Has a complete roof enclosure supported by connecting walls that are constructed of solid material extending from the ground to the roof;

(ii) Is secure against unauthorized entry;

(iii) Has a foundation, slab, or equivalent base to which the floor is securely attached;

(iv) Meets performance standards ensuring that cultivation and processing activities cannot be and are not perceptible from the structure in terms of:

(a) Common visual observation;

(b) Odors, smells, fragrances, or other olfactory stimuli;

(c) Light pollution, glare, or brightness;

(d) Adequate ventilation to prevent mold; and

(e) Noise;

(v) Provides complete visual screening; and

(vi) Is accessible only through one (1) or more lockable doors;

(C) Current detailed plans and elevation drawings of all operational areas involved with the production of medical marijuana are maintained on the premises of the cultivation facility, including:

(i) All storage areas, ventilation systems, and equipment used for production;

(ii) All entrances and exits to the cultivation facility;

(iii) All windows, skylights, and retractable mechanisms built into the roof;

(iv) The location of all required security cameras;

- (v) The location of all alarm inputs, detectors, and sirens;
- (vi) All video and alarm system surveillance areas;
- (vii) All production areas labeled according to the specific activity occurring within the area;
- (viii) All restricted and limited access areas identified; and
- (ix) All nonproduction areas labeled according to purpose;
- (D) Access to areas where marijuana is grown, harvested, processed, and stored is limited to authorized personnel and:
 - (i) Designated by clearly marked signage; and
 - (ii) Locked and accessible only by authorized personnel on a current roster of authorized personnel;
- (E)(i) Written policies regarding any nonregistered agent who may visit the premises and a log of all visitors to the premises are developed and maintained.
- (ii) The log shall consist of the visitor's name, purpose of visit, time of arrival, and time of departure.
- (iii) Visitors to a cultivation facility shall be:
 - (a) Issued a visitor identification tag containing the visitor's name that shall be worn for the duration of the visit on the premises; and
 - (b) Escorted by a cultivation facility agent at all times while present on the premises.
- (iv)(a) However, contractors conducting repairs, maintenance, or other specific duties may be escorted to their work site and left unaccompanied while completing a job.
- (b) Cultivation facility agents shall ensure that the contractor and area under repair are under video surveillance for the duration of the time spent on the premises by the contractor; and
- (F)(i) An alarm system is equipped that upon attempted unauthorized entry, transmits a signal directly to a central protection company for a local or state police agency and a designated cultivation facility agent.
- (ii) The alarm system shall:
 - (a) Provide coverage for all points of ingress and egress to the cultivation facility, including without limitation doorways, windows, loading bays, skylights, and retractable roof mechanisms;
 - (b) Provide coverage of any room with an exterior wall, any room containing a safe, and any room used to grow or store medical marijuana;
 - (c) Be equipped with a panic drive that upon activation will not only sound any audible alarm components but will also notify law enforcement;
 - (d) Have duress and hold up features to enable a cultivation facility agent to activate a silent alarm notifying law enforcement of an emergency;

(e) Be equipped with failure notification systems to notify cultivation facilities and law enforcement of any failure in the alarm system; and

(f) Have the ability to remain operational during a power outage.

(2) A cultivation facility shall maintain compliance with applicable city or county building or structure rules, regulations, or ordinances and any other applicable state laws or rules regarding buildings or structures. [As amended by Acts 2017, No. 4, §§ 4-6; 2017, No. 545, § 2; 2017, No. 587, § 1; 2017, No. 594, §§ 1, 2; 2017, No. 639, § 2; 2017, No. 640, § 1; 2017, No. 641, § 1; 2017, No. 642, § 1; 2017, No. 948, § 2; 2017, No. 1023, § 3; 2017, No. 1024, §§ 2, 3; 2017, No. 1100, § 1, 2; 2017 (1st Ex. Sess.), No. 1, § 6; 2017 (1st Ex. Sess.), No. 8, § 6; 2019, No. 1004, § 1; 2021, No. 666, § 2.]

Legislative Amendments. The 2019 amendment added the (g)(2)(C)(i)(a) designation; inserted “or facility for individu-

als with developmental disabilities” twice in (g)(2)(C)(i)(a); and added (g)(2)(C)(i)(b). The 2021 amendment added (s)(3).

RESEARCH REFERENCES

Ark. L. Rev. Carol Goforth & Robyn Goforth, Medical Marijuana in Arkansas:

The Risks of Rushed Drafting, 71 Ark. L. Rev. 647 (2019).

CASE NOTES

Judicial Review.

Marijuana cultivation facility applicant could not proceed to the extent its complaint rested on § 25-15-212 as a jurisdictional basis as the Medical Marijuana Commission’s decision to disqualify it took place without notice or a hearing, and thus it was not the result of an adjudication. Ark. Dep’t of Fin. & Admin. v. Carpenter Farms Med. Grp., LLC, 2020 Ark. 213, 601 S.W.3d 111 (2020).

Marijuana cultivation facility applicant’s claim that the Medical Marijuana Commission failed to adopt model rules promulgated by the Attorney General under § 25-15-215, or give a reason for not doing so, was allowed to proceed under § 25-15-207, as it involved the applicability or validity of the Commission’s rules, rather than the Commission’s application of those rules to the applicant. This claim could proceed under the “ultra vires” or “illegal acts” exception to sovereign immunity. Ark. Dep’t of Fin. & Admin. v. Car-

penter Farms Med. Grp., LLC, 2020 Ark. 213, 601 S.W.3d 111 (2020).

Medical Marijuana Commission’s rule permitting an appeal to circuit court of the denial of a cultivation license violated sovereign immunity principles and could not serve as the jurisdictional basis for the applicant’s suit challenging the denial of its application. Ark. Dep’t of Fin. & Admin. v. Carpenter Farms Med. Grp., LLC, 2020 Ark. 213, 601 S.W.3d 111 (2020).

Marijuana cultivation facility applicant was allowed to proceed on an equal protection claim against the Medical Marijuana Commission and the claim was not barred by sovereign immunity as it was premised on the State’s allegedly unconstitutional actions and sought a declaratory judgment, and the applicant had sufficiently alleged state action that differentiated among individuals. Ark. Dep’t of Fin. & Admin. v. Carpenter Farms Med. Grp., LLC, 2020 Ark. 213, 601 S.W.3d 111 (2020).

§ 9. Registration and certification of cultivation facility agents and dispensary agents.

RESEARCH REFERENCES

Ark. L. Rev. Carol Goforth & Robyn Goforth, Medical Marijuana in Arkansas: The Risks of Rushed Drafting, 71 Ark. L. Rev. 647 (2019).

§ 19. Medical Marijuana Commission — Creation.

CASE NOTES

Judicial Review.

Marijuana cultivation facility applicant could not proceed to the extent its complaint rested on § 25-15-212 as a jurisdictional basis as the Medical Marijuana Commission's decision to disqualify it took place without notice or a hearing, and thus it was not the result of an adjudication. Ark. Dep't of Fin. & Admin. v. Carpenter Farms Med. Grp., LLC, 2020 Ark. 213, 601 S.W.3d 111 (2020).

Marijuana cultivation facility applicant's claim that the Medical Marijuana Commission failed to adopt model rules promulgated by the Attorney General under § 25-15-215, or give a reason for not doing so, was allowed to proceed under § 25-15-207, as it involved the applicability or validity of the Commission's rules, rather than the Commission's application

of those rules to the applicant. This claim could proceed under the "ultra vires" or "illegal acts" exception to sovereign immunity. Ark. Dep't of Fin. & Admin. v. Carpenter Farms Med. Grp., LLC, 2020 Ark. 213, 601 S.W.3d 111 (2020).

Marijuana cultivation facility applicant was allowed to proceed on an equal protection claim against the Medical Marijuana Commission and the claim was not barred by sovereign immunity as it was premised on the State's allegedly unconstitutional actions and sought a declaratory judgment, and the applicant had sufficiently alleged state action that differentiated among individuals. Ark. Dep't of Fin. & Admin. v. Carpenter Farms Med. Grp., LLC, 2020 Ark. 213, 601 S.W.3d 111 (2020).

§ 23. Amendment by General Assembly.

RESEARCH REFERENCES

Ark. L. Rev. Carol Goforth & Robyn Goforth, Medical Marijuana in Arkansas: The Risks of Rushed Drafting, 71 Ark. L. Rev. 647 (2019).

§ 26. Acts amending Arkansas Medical Marijuana Amendment of 2016.

(a)(1) If an act of the General Assembly amends one (1) or more sections of this amendment under § 23 of this amendment, the Arkansas Code Revision Commission may, by a majority vote of the commission, make the following revisions to the act so long as the revisions do not change the substance or meaning of the act:

- (A) Correct the spelling of words;
- (B) Change capitalization for the purpose of uniformity;
- (C) Correct manifest typographical and grammatical errors;
- (D) Correct manifest errors in references to laws and other documents;

- (E) Correct manifest errors in internal reference numbers;
- (F) Number, renumber, redesignate, and rearrange the provisions of this amendment at issue;
- (G) Change internal reference numbers to agree with renumbered sections, subsections, subdivisions, or other provisions of law;
- (H) Insert or delete hyphens in words to follow correct grammatical usage;
- (I) Change numerals or symbols to words or vice versa and add figures or words if they are merely repetitions of written words or vice versa for purposes of uniformity and style;
- (J) Change the form of nouns, pronouns, and verbs for purposes of style and grammar;
- (K) Correct punctuation; and
- (L) Change gender-specific language to gender-neutral language.

(2)(A) If more than one (1) act amending a section of this amendment under § 23 of this amendment is enacted by the General Assembly during the same session, the commission may, by a majority vote of the commission, revise this amendment as necessary so that all of the enactments shall be given effect, including without limitation renumbering, redesignating, and rearranging sections, subsections, and subdivisions of this amendment.

(B) In the event that one (1) or more acts amending a section of this amendment under § 23 of this amendment result in an irreconcilable conflict with one (1) or more acts amending a section of this amendment enacted during the same session, the commission may, by a majority vote of the commission, revise this amendment so that the conflicting provision of the last enactment prevails.

(b) If the commission makes revisions under subsection (a) of this section, the commission shall file a report with the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Governor that:

- (1) Explains the revisions made under subsection (a) of this section; and
- (2) Includes the text of this amendment as amended by the revisions made under subsection (a) of this section. [As added by Acts 2019, No. 694, § 6.]

AMEND. 100. THE ARKANSAS CASINO GAMING AMENDMENT OF 2018.

Cross References. Letter of support for casino applicant, § 23-117-101.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Michael Stiritz, Note: Ballot Initiatives and Direct Democracy—Amendment 100 to the Arkansas Constitution: Constitutional Is-

sues Surrounding Ballot Initiatives and Local Legislation, 43 U. Ark. Little Rock L. Rev. 87 (2021).

§ 4. Licensing of Casinos and Casino Gaming.**RESEARCH REFERENCES**

U. Ark. Little Rock L. Rev. Michael Stiritz, Note: Ballot Initiatives and Direct Democracy—Amendment 100 to the Arkansas Constitution: Constitutional Is-

sues Surrounding Ballot Initiatives and Local Legislation, 43 U. Ark. Little Rock L. Rev. 87 (2021).

AMEND. 101. [TRANSPORTATION SALES TAX CONTINUATION].

Publisher's Notes. This amendment was proposed by H.J.R. 1018 during the 2019 Regular Session and adopted at the 2020 general election by a vote of 660,018 for and 532,915 against.

The bracketed heading was added by the Publisher.

Section 1 of the amendment added §§ 1-4 set out below.

§ 1. Intent of amendment.

(a) Arkansas Constitution, Amendment 91, levies a one-half percent sales and use tax to provide additional funding for the state's four-lane highway system, county roads, and city streets.

(b) The one-half percent sales and use tax under Arkansas Constitution, Amendment 91, shall be abolished when there are no bonds outstanding to which tax collections are pledged as provided in this amendment.

(c) Notwithstanding Arkansas Constitution, Amendment 91, § 8, it is the intent of this amendment that the sales and use tax levied under Arkansas Constitution, Amendment 91, continue after the retirement of the bonds authorized in Arkansas Constitution, Amendment 91, to provide special revenue for use of maintaining, repairing, and improving the state's system of highways, county roads, and city streets.

§ 2. Excise tax.

(a)(1) Except for food and food ingredients, an additional excise tax of one-half percent (0.5%) is levied on all taxable sales of tangible personal property, specified digital products, a digital code, and services subject to the tax levied by the Arkansas Gross Receipts Act of 1941, Arkansas Code § 26-52-101 et seq.

(2) The tax shall be collected, reported, and paid in the same manner and at the same time as is prescribed by law for the collection, reporting, and payment of all other Arkansas gross receipts taxes.

(b)(1) Except for food and food ingredients, an additional excise tax of

one-half percent (0.5%) is levied on all tangible personal property, specified digital products, a digital code, and services subject to the tax levied by the Arkansas Compensating Tax Act of 1949, Arkansas Code § 26-53-101 et seq.

(2) The tax shall be collected, reported, and paid in the same manner and at the same time as is prescribed by law for the collection, reporting, and payment of Arkansas compensating taxes.

§ 3. Disposition of revenue.

(a) The revenue from the taxes levied under § 2 of this amendment shall be distributed to the State Highway and Transportation Department Fund, the County Aid Fund, and the Municipal Aid Fund in the percentages provided in sections § 27-70-201 and § 27-70-206 of the Arkansas Highway Revenue Distribution Law.

(b) No revenue derived from the taxes levied under § 2 of this amendment shall be used to secure bonds issued by the State Highway Commission.

§ 4. Effective date.

(a) If the Chief Fiscal Officer of the State determines that a written statement under Arkansas Constitution, Amendment 91, § 8(b), has been filed with the Chief Fiscal Officer of the State before June 1, 2023, the tax under § 2 of this amendment shall be levied and collected on and after July 1, 2023.

(b) If a written statement under Arkansas Constitution, Amendment 91, § 8(b), has not been filed with the Chief Fiscal Officer of the State before June 1, 2023, the tax under § 2 of this amendment shall not be levied and collected until the first day of the first calendar quarter beginning more than thirty (30) days after a written statement under Arkansas Constitution, Amendment 91, § 8(b), is filed with the Chief Fiscal Officer of the State.

AMEND. 102. ARKANSAS TERM LIMITS AMENDMENT (CONST. AMEND. 73, § 2, AMENDED).

Publisher's Notes. This amendment amended Ark. Const. Amend. 73, § 2, and is incorporated within that section. The amendment was proposed by S.J.R. 15 during the 2019 Regular Session and ad-

opted at the 2020 general election by a vote of 647,861 for and 521,979 against.

Effective Dates. Ark. Const. Amend. 102, § 2(2): Jan. 1, 2021.

